Supreme Court, U.S.
FILED

BOOK 2

09-975 JAN 21 2010

No. OFFICE OF THE CLERK

IN THE
SUPREME COURT
OF THE UNITED STATES

Maria L. Peterson -- *Petitioner*

VS.

PDQ Food Stores Inc. &
Lakeview Investments LLC.
Respondent

ON PETITION FOR WRIT OF
CERTIORARI T FROM THE U.S.
COURT OF APPEALS FOR THE
SEVENTH CIRCUIT , CHICAGO ILL.

PETITION FOR WRIT OF CERTIORARI

MARIA L. PETERSON
5846 SPRUCE CREEK WOODS DR.
PORT ORANGE, FL. 32127
1-386-760-5672 CELL 1-386-214-5370
ATTORNEY'S FOR *RESPONDENT*
THOMAS P. AIELLO
NICHOLAS INFUSINO
MICHAEL DUBIS

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PDQ FOOD STORES, INC

PURCHASE AGREEMENT

Village of Pleasant Prairie,
Kenosha County, Wisconsin
Location
Northwest Corner of Highway 50 and 88th Avenue Project Reference: Rockin' Robin's Mill

THIS AGREEMENT (the "Agreement"), is made and entered into this 15th day of August, 1996, by and between PDQ Food Stores, Inc., a Wisconsin corporation ("PDQ") and Dennis and Maria Peterson ("Seller").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I

PURCHASE PRICE

The total purchase price to be paid by PDQ to Seller for the Property, subject to the adjustments and pro-rations described in Article III is Six Hundred Thirty-Seven Thousand Five Hundred Dollars (637,500) (the "Purchase Price").

(A) Thirty-Seven Thousand Five Hundred Dollars (37,000) (the "Deposit"), shall be deposited by PDQ within ten (10) days after the Seller's acceptance of this Agreement and held in trust prior to Closing by First American Title Insurance

Company (the "Title Company"). The Deposit shall be retained by the Title Company in an interest-bearing account with interest accruing to PDQ ; and

(B) Six Hundred Thousand Dollars (600.000), as such amount may be increased or decreased by the net closing adjustments and pro-rations, by wire transfer, certified check, or immediately available funds delivered to Seller at Closing. Funds delivered by wire transfer shall be deemed to be delivered when Seller's bank has given Seller written or telephonic notice that such funds have been received and deposited into Sellers' account, and

(A) If the purchase and sale under this Agreement fails to close due to the inability of PDQ to satisfy or waive any contingency under Article VI within the allotted time, or, following the satisfaction or waiver of all such contingencies, due to Sellers default, PDQ shall be entitled to a prompt refund of the Deposit including accrued interest. If, however, such purchase and sale fails to close after all contingencies set forth in Article VI have been removed or waived, due to PDQ's default, Seller shall be entitled to the Deposit including accrued interest as liquidated damages which Seller agrees shall be Seller's sole and exclusive remedy under this Agreement.

ARTICLE III

ADJUSTMENTS AND PRORATIONS TO PURCHASE PRICE

(A) Property Taxes. Seller shall pay all real and personal property taxes for all years prior to the year of Closing. Real and personal property taxes levied for the year of Closing shall be prorated on a daily basis to the Closing Date using actual real and personal property taxes levied for the year of Closing. PDQ shall receive a credit to the Purchase Price at Closing for Seller's pro-rate share of such taxes. If the actual tax levy is not known at the time of Closing, PDQ and Seller shall pro-rate real and personal property taxes at the time of closing on a daily basis based on the net general real and personal property taxes for the previous year. If the Property is part of a larger tax parcel, the real and personal property taxes shall be further pro-rated, based upon the ratio of the total square footage of the Property to the total square footage of such tax parcel.

(B) Special and Area *Assessments*. Seller shall pay all special and area assessments for work on the Property ***actually commenced, completed, or levied prior to the date of Closing,*** and all connection charges or interceptor charges payable to any utility or municipality as a prerequisite to obtaining water or sanitary sewer or storm sewer, gas or electrical service. Such assessments to be borne by Seller shall include, without limitation, all assessments and costs ***to be levied by the public authorities*** in connection with the construction of proposed 74th Street running in an east-west direction through the Property. All special and area assessments ***levied against the Property*** which are payable in installments,

including installments falling due after the Closing, shall be charged to Seller, and shall be paid by Seller at Closing, or at PDQ's election, PDQ shall receive a credit at Closing to the Purchase Price for the amount of such assessments. If any installment is not payable at Closing because future installments or payments are bonded or for any other similar cause, the amount of such installments, including interest to be paid at the due date, shall be charged to the account of Seller and credited to PDQ.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

This Agreement is entered into by PDQ based upon the representations and warranties of Seller set forth below, upon which PDQ has relied and without which PDQ would not have entered into this Agreement. All such representations and warranties are conditions of this Agreement. Each representation and warranty is true as of the date of this Agreement, shall be true on the Closing Date and shall survive the Closing. PDQ may waive in writing any or all of the following representations and warranties.

(A) AUTHORITY OF OWNER Owner has complete power and authority to sell, transfer and convey the Property to PDQ, and the person (or those persons) signing as or on behalf of Owner personally warrant that they have the authority to act as Owner's agent or agents in the execution and delivery of this Agreement. If owner is a party to a marital or property classification

agreement which requires spousal consent for conveyance of the Property, Owner shall obtain spousal consent on the signature page of this Agreement and any other documents of transfer requiring spousal consent.

(B) GOOD TITLE Seller has, and will have, as of the Closing Date, good and marketable title to the Property. The Property shall be on the Closing Date, subject to no easements, security interests, defects in title, mortgages, pledges, leases, rights-of-way, liens or other encumbrances of any nature whatsoever excepting municipal and zoning ordinances, general taxes for the year of Closing, and those exceptions waived under Article V (D) of this Agreement. Only those exceptions expressly waived by PDQ shall constitute "Permitted Exceptions."

(C) LITIGATION, COURT ORDERS To the best of Seller's knowledge, there are no legal actions, condemnation proceedings, suits or other legal or administrative proceedings, pending or threatened against the Property. To the best of Sellers knowledge , there are no governmental agency or court orders requiring repairs, alterations or corrections of any existing conditions on the property.

(D) NO COMMITMENT TO GOVERNMENTAL AUTHORITY. Seller had made no commitment to any governmental authority, utility, body, neighborhood association or other organization, group or individual relating to the Property which would impose an obligation upon PDQ to install or maintain any

improvements of public or private nature on or off the Property, or which would limit or adversely affect the permitted uses of the Property, ***except for the proposed 74th Street.***

(E) SPECIAL ASSESSMENTS To the best of Seller's knowledge, there are no planned or commenced public improvements which may result in special assessments or which may otherwise directly or materially affect the Property.

(F) NO PRIOR RIGHT TO PURCHASE No person or entity has any option, right of first refusal or similar right to purchase all or any portion of the Property.

(G) PROPERTY PHYSICALLY SUITABLE FOR CONTEMPLATED USE The Property is serviced by water, sanitary sewer, gas, electric, and telephone facilities which are connected and operational and which have been, and are, adequate to service the Property for use by PDQ as a convenience food store facility selling gasoline. Storm water detention is required to be on-site. All such improvements have been paid for in full, and all levies, impact fees and charges of any kind whatsoever levied by the municipal or other governmental authority, public utility and commission have been paid in full. In the event such improvements are not connected and operational, Seller shall cause all such improvements to be connected and operational to the Property line at Sellers' expense.

(H) LAWS REGULATING CONTEMPLATED USE OF THE PROPERTY The use and operation of the Property as for the construction *of a convenience food store facility selling gasoline* shall, at Closing, be in full compliance with applicable zoning, land use, environmental (including without limitation the Comprehensive Environmental Response Compensation and Liability Act and the Resource Conservation and Recovery Act). Other regulatory laws, and private deed restrictions. Seller has received no notice of any change contemplated in any applicable law, ordinance or restriction or any judicial or administrative action, or any action by adjacent land owners which would prevent, limit, impede or render more costly, the use and operation of the Property by PDQ *for a convenience food store facility selling gasoline,* except normal increases in real estate taxes.

(I) NO OUTSTANDING ORDERS REGARDING UTILITIES. No alterations repairs, improvements or other work have been ordered or directed to be done or performed to the Property or any part thereof or to the sewage containment and disposal system, if any, well, plumbing, heating, sanitary sewer, if any, water electrical or other mechanical systems, by any court or municipal, state or other authority which has not been complied with to the satisfaction of such authority.

(J) NO OUTSTANDING ORDERS REGARDING CONDEMNATION: Compliance With Building and Use Restrictions No notice or order has been received or remains

outstanding from any municipal, state or other statutory authority or board of fire underwriters or court advising of any defects in the Property or any installations of the Property, or relating to noncompliance with any building restrictions, zoning ordinance or other regulation or ordinance or relating to any threatened or impending condemnation. To the best of Seller's knowledge, no such defect or noncompliance exists. The property shall be conveyed free and clear of any such defects or noncompliance.

(K) FLOOD PLAIN The Property is not located in a flood plain or erosion hazard area. None of the Property has been classified as "wetland".

(L) UNPAID BILLS There shall be on the Closing Date no unpaid bills or claims in connection with construction on, or any repair or improvement to the Property, except as may be disclosed in writing by Seller to PDQ at Closing , and except for any services that have not yet been belled to Seller as of the Closing Date. Seller covenants and agrees that it shall promptly pay all such bills and claims for services rendered for any period prior to the Closing Date when due, and that Seller shall indemnify and hold PDQ harmless from any and all loss or damages resulting from Seller's failure to pay such bills and claims when due.

(M) SOIL To the best of Sellers knowledge, there is no soil compaction, severe composition or substandard soil conditions or other soil problems which could cause significant extraordinary

expense to PDQ to construct with *PDQ's convenience food store facility gasoline service on the Property*

(N) Adverse Information Seller has no knowledge or information of any facts, circumstances, or conditions which do or would inany way adversely affect the Property, or PDQ's successful development of the Property for *PDQ"s convenience food store facility selling gasoline* except as specifically stated in this Agreement.

Seller shall indemnify and hold PDQ, its successors and assigns, harmless from any reasonable loss, proceeding, cost, claim or expense (including, without limitation, attorney's fees) arising out of the breach of any of the foregoing warranties and representations, each of which shall survive Closing. The indemnification provided by Seller to PDQ shall in no event however exceed the Purchase Price.

ARTICLE V

COVENANTS OF THE PARTIES

The parties shall each perform the following:

(A) TESTS AND INSPECTIONS. Seller shall permit PDQ and its agents to enter upon the Property at all reasonable times prior to the Closing for the purpose of making surveys, soil tests, borings and other reasonable inspections. PDQ will repair any physical damage to the Property caused by such tests and inspections (not including any damage from spreading or

otherwise involving preexisting hazardous waste or the like in, under, or adjacent to the Property), and will indemnify and hold Seller harmless from any loss, cost, claim or expense including, without limitation, attorney's fees arising out of any personal injury, property damage, or construction liens in connection with such inspections.

(B) DELIVERY OF DOCUMENTS within ten (10) days after Seller's acceptance of this Agreement, Seller shall deliver or make available to PDQ, for PDQ's information and review, true and complete copies of any relevant studies, tests, reports, surveys, agreements, documents, and other information with respect to the Property reasonably known to the possession of, or under the control of Seller.

(C) SURVEY, Within thirty (30) days after Seller's acceptance of this Agreement, Seller, at Seller's expense, shall obtain a current monument boundary, topography and improvement survey of the Property (the "Survey"). Prepared and certified by a registered Professional Engineer or Land Surveyor. The Survey shall include the location and dimensions of all street curbing or asphalt edging, utility poles, signage and access drives adjacent to the Property and all easements, rights of way, ditches, fencing, water runoff, flood plains, wetlands or similar conditions on the Property of record, apparent from visible inspection or discoverable by reasonable inquiry. The Survey shall contain sufficient detail to enable the Title Company to delete the standard exceptions for matters that would be revealed by

the survey. PDQ shall reimburse Seller at Closing, for 50 percent of the cost of the Survey.

(D) COOPERATION: NEW AGREEMENTS. Sell shall execute and deliver, promptly upon request by PDQ, such applications and other documents and information as may be required to accomplish any provision of the Agreement, and shall cooperate fully with PDQ in fulfilling all of the covenants and satisfying all of the contingencies set forth in this Agreement. Seller will not enter into any agreement affecting the Property which could interfere with Sellers' ability to close the transaction contemplated by this Agreement or which could bind PDQ or adversely affect the Property after the Closing.

(F) RESTRICTIONS For a period of thirty (30) years after Sellers' acceptance of this Agreement, or until such earlier time PDQ or any of its successors or assigns, after opening such a store or facility, ceases to operate a convenience food store facility selling gasoline or other motor fuels for a period of one (1) or longer, Seller shall not use, sell, lease or otherwise transfer to anyone any real property or interest therein owned or leased by Seller or which Seller may directly or indirectly own, lease or control located within 2,500 feet of the property (i) for the operation of a convenience food store: or (ii) for a facility to sell gasoline or other motor fuel. This restriction shall apply only to properties with street frontage and shall not apply to interior properties without street frontage. Seller agrees that this restriction is reasonable in scope, duration and affected geographical area and may be recorded by PDQ

with the register of deeds for the county in which the Property is located.

(G) BACK UP OFFERS Subject to the terms and provisions of this Agreement, Seller shall have the right to market the Property and accept back-up offers until the Closing.

ARTICLE VI

CONTINGENCIES

PDQ"s OBLIGATION TO PURCHASE THE Property is subject to the satisfaction of each of all of the following contingencies. PDQ may waive any or all of the following contingencies by written notice to the Seller. Should one or more of the following contingencies not be satisfied or waived by PDQ in writing within the time periods provided for in each such contingency, the Deposit shall be returned to PDQ promptly and each party will thereupon be relieved of all further obligations under this Agreement.

(A) FEASIBILITY REVIEW. PDQ shall have until sixty (60) days after Sellers" acceptance of this Agreement to determine to PDQ's satisfaction the feasibility of ***PDQ's intended development of the Property*** .

(B)APPROVAL OF TITLE AND SURVEY. On or before fifteen (15) days after Seller has delivered to PDQ the Title Commitment and Survey Pursuant to Article V(C) and (D) of this Agreement, whichever is received last, PDQ shall notify Seller in writing which exceptions, if any, to

title and /or the survey contained in such documents are acceptable to PDQ. Only those exceptions that are so accepted by PDQ shall constitute "Permitted Exceptions." PDQ shall have the right to object to any exception to title including, without limitations, the location and dimensions of proposed 74th Street running in an east-west direction through the Property. If PDQ does not provide such written notice to Seller within the time period provided, all exceptions to title shall be deemed to be unacceptable to PDQ. Seller shall exercise all reasonable efforts to cure such exceptions at Sellers expense within thirty (30) days after the date of such written notice or lack of such notice as set forth above.

(C) PERMITS AND APPROVALS. On or before ninety (90) days after Seller has delivered the Survey pursuant to Article V©, PDQ will have obtained all approvals, permits and licenses necessary for the construction and operation of a ***convenience food store with gasoline*** facilities in accordance with the plans and specifications PDQ deems necessary for development of the Property as a convenience food store selling gasoline, including, without limitation zoning, subdivision, access, drainage and site plan approvals; building, utilities, sewer, health and fire permits, and licenses and permits to store and sell gasoline and other motor fuels. ***If PDQ has submitted its applications for such approvals, permits and*** licenses to appropriate authorities or agencies, but any such authority or agency has not finally acted on any such applications, the time period to satisfy the contingency shall automatically be extended to the date such authority or agency

takes final action with respect to such application, the time period to satisfy this contingency shall automatically be extended to the date such authority or agency takes final action with respect to such application, but not more than ninety (90) additional days. ***During the extended period, Buyer shall pay to Seller the sum of $140.00 per day as and for additional purchase price.*** Said amount shall be paid weekly by release of funds from amounts escrowed with First American Title Company. ***Such amount paid is in addition to the purchase price,*** shall not be credited towards the $637,500.00 purchase price, and shall be un-refundable should this transaction fail to close for any reason other than Sellers default.

(D)CONDEMNATION. No condemnation or similar proceeding for the taking by any governmental or quasi-governmental entity of any part of the Property shall have been commenced or threatened.

(E) ENVIRONMENTAL AND SOILS. Within ninety (90) days after Seller's acceptance of this Agreement, PDQ at its expense, shall obtain an environmental assessment by an environmental engineering firm or hydro-geologist reasonably acceptable to PDQ, as to the condition of the Property with respect to the presence of any hazardous substances, toxic materials, waste, asbestos, petroleum products, or underground storage tanks, abandoned or discarded barrels, containers or other closed receptacles located on, below, or adjacent to the Property certifying that soil compaction, soil composition and other soil conditions do not represent a condition which

would cause construction of PDQ"S contemplated use to be in PDQ's reasonable business judgment, extraordinarily expensive.

(F) ALCOHOL LICENSE. PDQ shall have sixty (60) days after Sellers' acceptance of this Agreement to obtain all licenses necessary to sell alcohol for consumption "off premises."

ARTICLE VII

CONDEMNATION

SELLER SHALL BEAR ALL RISK THROUGH CLOSING. Seller shall bear the risk of any condemnation of the Property, or any part thereof, until the execution and delivery of the conveyance provided for herein. Seller shall promptly notify PDQ in writing of any taking by eminent domain or condemnation or of any bona fide threat by any governmental body having power of eminent domain or condemnation. Sellers' notice to PDQ shall include copies of any notices or other documents that Seller has received from such governmental body in connection with such eminent domain or condemnation.

ARTICLE VIII

SELLER'S OBLIGATIONS

The closing shall occur on the tenth day following Buyer's satisfaction or waiver of all contingencies described in Article VI (the Closing Date), but in no event later than March 15, 1997. At the closing, Seller shall perform the following:

(A) DEED. Execute, acknowledge and deliver to PDQ a warranty deed conveying title to the Property subject only to Permitted Exceptions.

(B)AFFIDAVIT RE: CONSTRUCTIONS LIENS. Execute, acknowledge and deliver to PDQ an affidavit on a form provided or approved by the Title Company that there have been no improvements on or to the Property for six (6) months immediately preceding the Closing Date, Seller shall deliver releases or waivers of all construction liens executed by general contractor, subcontractors, suppliers or material men to the Title Company.

(C) DELIVERY OF POSSESSION. Deliver legal and physical possession of the Property to PDQ.

(D) WISCONSIN TRANSFER TAX RETURN. Execute and deliver to PDQ the Wisconsin Transfer Tax Return, together with a check made payable to the register of deeds of the county in which the Property is located in the amount of the transfer tax due.

(E) CLOSING STATEMENT. Execute and deliver to PDQ a closing statement setting forth the Purchase Price, all adjustments thereto and all amounts paid at Closing.

(F) CERTIFICATE OF NONFOREIGN STATUS Execute and deliver to PDQ a certificate of non-foreign status meeting the requirements of Section 1445 of the Internal Revenue Code.

(G) FORM W-9 Complete, execute and deliver to PDQ Department of the Treasure-Internal Revenue Service Form W-9 ("Request for Taxpayer Identification Number and Certificate")

ARTICLE IX

PDQ'S OBLIGATIONS

At the Closing, PDQ shall:

(A) DELIVERY OF CHECK. Deliver to Seller funds equal to the unpaid balance of the Purchase Price, as adjusted pursuant to Article III. Such funds shall be in the form prescribed by Article II (B).

(B) CLOSING STATEMENT. Execute and deliver to Seller a closing statement setting forth the Purchase Price, all adjustments thereto and all amounts paid at Closing.

ARTICLE X

DEFAULT

If either party fails to perform such party's respective obligations hereunder (except as excused by the other party's default), the party claiming default shall make written demand for performance. If Seller fails to comply with such written demand within ten (10) days after receipt thereof, PDQ shall then be entitled to the return of the Deposit, and to exercise all rights and remedies available at law or in equity. The

acceptance by PDQ of the return of the Deposit shall not be deemed to be a waiver by PDQ of any right to specific performance. If PDQ fails to comply with such written demand within ten (10) days after receipt thereof, Seller shall be paid the Deposit as liquidated damages as full and complete settlement of any and all claims Seller may have against PDQ hereunder. Upon payment of the Deposit to Seller, PDQ shall be discharged from any further obligations and liabilities under this Agreement. Seller, upon receipt of the Deposit as liquidated damages shall be deemed to have waived all rights to claim or demand specific performance of this Agreement or to recover any other form of damages.

ARTICLE XI

GENERAL PROVISIONS

(A) ENTIRE AGREEMENT. This Agreement contains the entire agreement between PDQ and Seller and it shall inure to the benefit of and shall bind the parties hereto, their respective heirs, executors, successors or assigns.

(B) GOVERNING LAW. This agreement shall be governed by, and construed in accordance with, the laws of the State of Wisconsin.

(C) SURVIVAL OF WARRANTIES AND REPRESENTATIONS, INDEMNIFICATION. Any warranty, representation or agreement contained in this Agreement shall survive the Closing.

(D) MODIFICATIONS. This Agreement may be amended or modified only by written instrument executed by both of the parties hereto.

(E) NOTICES. All notices, consents or other instruments or communications provided for under this Agreement shall be in writing, signed by the party giving the notice, and shall be deemed properly given and received when delivered by messenger, telecopier, overnight commercial carrier or regular mail and actually received or, on the third business day after mailing, if sent by certified mail, return receipt requested, postage prepaid, to the address of the party set forth below or to such other address as such each may designate by written notice to the other party given in accordance with this Paragraph (E)

If to PDQ With a contemporaneous copy

or electronic transmission to:

PDQ Food Stores, Inc.
Attn: President
Attn: Randy Manning
P.O. Box 620997
8383 Greenway Boulevard
Middleton, WI 53562-0997
Phone: (608) 838-3335
Facsimile: (608) 836-8233

If to Seller:

Dennis and Maria Peterson

8800 75th Street
Kenosha, WI.
Phone: (414) 684-2031

With a contemporaneous copy or electronic transmission to:

John Maan De Kok
Phillips, Richards, Mayew & Corrigal, S.C.
1025 56th Street
Kenosha, WI. 53140
Phone: (414) 658-4604
Facsimile: (414)658-9346

(F) CAPTIONS AND HEADINGS. The captions and headings of various sections of this Agreement are for convenience only and are not to be construed as confining or limiting in any way the scope of intent of the provisions of this Agreement. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and masculine, feminine and neuter shall be freely interchangeable.

(G) RECORDING, PDQ shall have the right to record a memorandum of this Agreement, which Seller agrees to execute, in real property records of the County in which the Property is located.

(H) BROKERS Each party represents that it has not engaged the services of any real estate broker or finder in connection with the transaction contemplated by this Agreement. PDQ and Seller agree to indemnify, defend and

hold each other harmless from and against any claim by any other person for any compensation with respect to the sale and purchase of the property contemplated hereby and resulting from the acts of the indemnifying party.

(I) SEVERABILITY OF PROVISIONS: In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if the invalid, illegal or unenforceable provision had never been contained herein.

(J) TIME OF ESSENCE. *Time is of the essence.*

(K) COUNTERPARTS. In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.

(L) LITIGATION. In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.

(M) ACCEPTANCE. If this Agreement is accepted by Seller, it shall not become binding upon PDQ until a copy of this Agreement accepted by Seller is personally delivered to PDQ or deposited, postage prepaid, in the United States

mail, addressed to PDQ on or before August 21, 1997. If not accepted by Seller and returned to PDQ on or before such date, this Agreement shall thereupon become void in its entirety and of no further force and effect.

INWITNESS WHEOF, the parties hereto have executed this Agreement as of the date first above written .

PDQ FOOD STORES, INC.

Date "S/" 8-15-95

_____ By "S/" Chris J. Jacobsen

Its: Chief Executive Officer

ACCEPTANCE BY SELLER:

Date "S/" 8-20-96

_____

"S/" Dennis L. Peterson

Dennis L. Peterson

"S/" Maria L. Peterson

Maria L. Peterson

RESTRICTIVE COVENANT

DOCUMENT NUMBER
1052133
Register of Deeds
3/24/1997
at 8:36 PM

NO Parcel Number
VILLAGE OF PLEASANT PRARIE

EXHIBIT K

RETURN TO

Richard C. Glesner
1 South Pinckney Street
Madison, WI. 53701-1806

SEE ATTACHED LEGAL DESCRIPTION

RESTRICTIVE COVENANT

Restrictive Covenant from Dennis L. Peterson and Maria L. Peterson ("Sellers")
To PDQ Food Stores, Inc. ("PDQ"0.

Sellers are selling the real estate described on attached Exhibit A to PDQ (the PDQ Parcel). The Agreement of Purchase and Sale between Sellers and PDQ (the "Agreement") for acquisition of the PDQ Parcel by PDQ provides that Seller will grant a restrictive covenant to PDQ restricting all other property owned by Seller, all or any part of which is situate within 2,500 feet from the PDQ Parcel measured from the nearest property boundaries.

In Partial fulfillment of the Agreement and for one dollar ($1.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged and parties intending to be legally bound, agree as follows:

1. For a period descried in paragraph 2 of this Agreement, neither Sellers nor their successors in title shall use, sell or lease or otherwise transfer to anyone any real property or any interest in real property now or subsequently owned by or leased to Seller located within 2,500 feet of the PDQ Parcel for:

(a) The operation of a convenience food store similar to PDQ, Super America, Amoco, Mobil, Shell or Kwik Trip, or

(b) The operation of a facility to sell gasoline or other motor fuels on a self-service or other retail basis.

The real property in which Sellers or either of them currently have an interest subject to this Restrictive Covenant is described on the attached Exhibit B.

2. The covenant created by this Agreement shall commence on the date of this Agreement and shall expire on the first to occur of the following two dates:

(a) Thirty (30) years after March 21, 1997, or

(b) The date PDQ or any successor or assign of PDQ< after opening a store or facility of the type described in paragraph 1. ceases to operate a convenience store or facility from the PDQ Parcel or ceases to sell gasoline or other motor fuels on a self-service or other retail basis from the PDQ Parcel for twelve or more consecutive months. If PFQ or any successor or assign ceases to operate one but not both of the uses from the PDQ Parcel, the convenient shall terminate only as to the uses which has ceased for a period of twelve or more consecutive months.

3. This covenant shall run with the land for the benefit of PDQ and the PDQ Parcel, and shall insure to the benefit of and be binding upon the

parties, their respective heirs, representatives, successors and assigns.

4. Sellers acknowledge that the geographic scope and duration of this covenant is reasonable to protect the investment PDQ will make in the PDQ Parcel to establish its business and to reasonable recover its investment. Sellers agree not to bring any action or make any allegations in the court of law or otherwise, that the duration or the geographical limit of the restriction created by this Agreement is unreasonable or unnecessary to protect PDQ's investments.

5. If any portion of this Agreement is determined by a court of competent jurisdiction to be illegal or unenforceable, the provision will be deemed stricken from this Agreement but all other provisions of the Agreement shall remain in full force and effect. Further, if the illegal or unenforceable provision does not allow this Agreement to carry out its intent, the parties agree to further amend this Agreement in such a manner as to permit this Agreement to carry out the original intent of the parties.

6. If Sellers or their successors in title violate the terms and conditions of this Agreement, PDQ, in addition to and not in limitation of, any of the rights, remedies or damages otherwise available, at law or in equity, shall be entitled to injunctive relief in order to prevent or restrain any such breach without the necessity that damages to PDQ are not subject to an exact determination. Such remedies shall not be exclusive and PDQ may concurrently seek other recovery available at

law or in equity against Sellers, or either of them, or Sellers' successors in title.

7. PDQ and Sellers assume joint responsibility for the form and composition of this Agreement, No provision of this Amendment shall be construed for or against either party because that party or that party's legal representative drafted this Agreement.

Dated March 21, 1997

SELLERS

"S/" Dennis L. Peterson

"S/" Maria L. Peterson

"S/" Jerry Archer

Vice President

AUTHENTICATION

Signatures of Dennis L. Peterson, Maria L. Peterson, and Jerry Archer, Authenticated this 21 day of March, 1997

"S/" Richard C. Glesner

Title: Member, State Bar of Wisconsin

Drafted by:
Richard C. Glesner
Michael, Best & Friedrich
P.O. Box 1806
Madison, WI 53701-1806
(608 257-3501

e:\xf\client\73130\0021\all0004,w52l3/21/97

EXHIBIT A

TO
RESTRICTIVE COVENANT AGREEMENT

Parcel A of CERTIFIED SURVEY MAP NO. 1218, recorded in the office of the Register of Deeds of Kenosha County, Wisconsin on September 23, 1998 in Volume "1326" Records, page 625, document number 808307, and being part of the southeast ¼ of section 5, town 1 north, range 22 east of the fourth principal meridian, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

Date opened 03/24/97

Acct. No. 0118913352

Name: Dennis L. or
Maria L. Peterson Beneficiary

Address: Kenosha Title Services Trustee

ADVANTAGE BANK
HOME OFFICE

CHECKING DEPOSIT

ACCT NBR	AMOUNT	BALANCE:
0118913352	$230,000.00	$230,000.00

FREE ATM & FREE CHECKING
WITH ADVANTAGE FREEDOM!

SAVINGS REGISTER

Date	withdrawal		Balance Br't Frd.
3/24/97		►	230,000.00

SIGNATURE CARD- Advantage Bank, FSB

Account Number: [0118913352]
Address [PO BOX 98]
[Kenosha WI.]

Account names Existing customer, new Acct.

Account type [18] Date opened 03/23/97

SS# 389381693
Dennis L. Peterson Beneficiary
Maria L. Peterson Beneficiary

Kenosha Title Services IN TRUSTEE

TAX WITHHOLDING CERTIFICATION:
Under penalties of perjury, I (we) certify (1) that the number shown on this form is my (our) correct taxpayer identification number, and (2) that I (we) am/are not subject to backup withholding because (a) I (we) have not been notified that I (we) am/are subject to backup withholding as a result of a failure to report all interest or dividends, or (b) the Internal Revenue Service has notified me that I am no longer subject to backup withholdings. If any of the signers have been notified by the IRS that they are subject to backup withholding, delete the language in (2) above.

- - - Fold here - - -

DEPOSITOR'S AGREEMENT

By signing this signature card, each of the undersigned depositors applies to ADVANTAGE BANK, FSB, (the 'Bank' on account in the name(s) of the accountholders(s) designated on this signature card: and acknowledges receipt of Truth in Savings disclosure and Deposit Account Agreement pertaining to the account, in consideration of the establishing the account, each of the undersigned: (1) Agrees that the account will be governed by (a) the Bank's charter or articles of incorporation and the Bank's bylaws, as now or hereafter in effect,
(b) such additional term contained in that Deposit Account Agreement as it now exists and may hereafter be amended, and (c) if applicant certifies that he or she has signed this signature card and entered into the agreements that it contains on behalf of entity designated by account name on this signature card, and has been duly authorized to do so and agrees to provide Bank with such evidence of that authority as the Bank may require. The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

A. "S/" Karen L. Gallin 3/24/97

B. "S/" Loretts Hawmefer ?? 3/24/97
Kenosha Title

C. "S/" ? Stanly ?? 3/24/97

ESCROW AGREEMENT

Agreement made this 5th day of March, 1997 (the "Effective Date"), by and between PDQ Food Stores Inc., and Wisconsin Corporation ("PDQ") Dennis L. & Maria L. Peterson ("Peterson") and Kenosha Title Services' Inc. ("Kenosha Title").

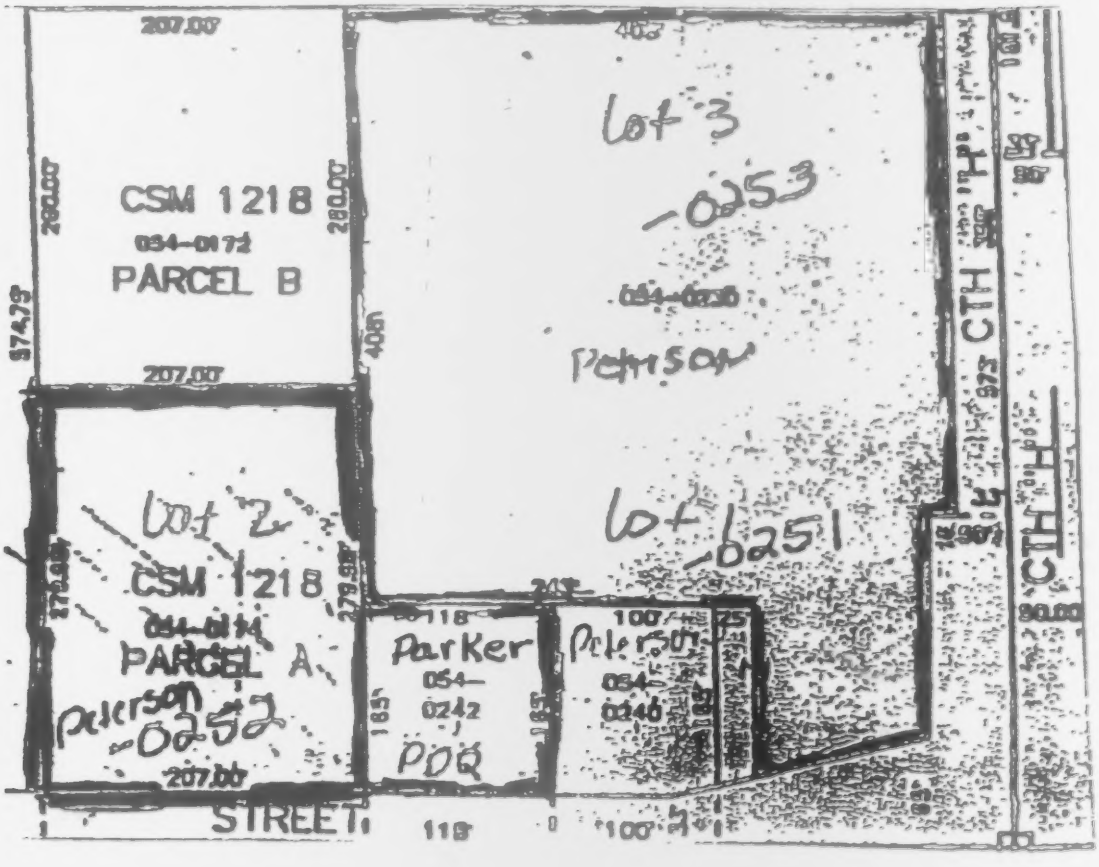
R E C I T A L S:

PDQ and Petersons have entered into a Commercial Offer to Purchase dated August 15, 1996 (the "Contract") for the purchase and sale of certain premises referred to as a parcel of land located at the northwest corner of Highway 50 and 88th Avenue in the Village of Pleasant Prairie, Kenosha County, Wisconsin known as the "Rockin Robins Mill" property (the "Property"), more particularly described as follows:

PARCEL 1: Part of the southeast ¼ of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning at the southeast corner of the southeast ¼ section 5: thence west along and upon the south line of said ¼ section, 165 feet: thence running north parallel with the east line of said ¼ section 165 feet: thence running west, parallel with the south line of said ¼ section 243 feet: thence running north parallel with the east line of said ¼ section 243 feet: thence running north parallel with the east line of said ¼ section 408 feet to the east line of said 1/4 section; thence running south along and upon the east line of said 1/4 section 573 feet to the point of beginning, lying and being in the Village of

PARCEL MAP

RED - ROCKIN ROBIN'S MILL
GREEN - - PARCEL A
BLUE - - PARKER 0242
0240 - - PETERSON'S RENTAL PROPERTY



BEST AVAILABLE COPY

Pleasant Prairie, County of Kenosha and State of Wisconsin.

PARCEL II: Part of the southeast ¼ of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast ¼ of section 5, at a point which is 165 feet west from the southeast corner of said ¼ section, and running thence west, along and upon the south line of said ¼ section and center line of the Geneva Road(Hwy. #50) so-called, a distance of 25 feet: thence running north, parallel with the east line of said ¼ section, 165 feet: thence running east, parallel with the south line of said ¼ section 25 feet: thence running south, parallel with the east line of said ¼ section 165 feet to the place of beginning, EXCEPTING THEREFROM the parcel of land conveyed to the County of Kenosha by instrument recorded August 3, 1961 in Volume "585" Records, page 336, document number 429675, LYING AND BEING IN THE Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

PARCEL III: Part of the southeast ¼ section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast ¼ of said section, at a point which is 190 feet west from the southeast corner of said ¼ section, and running thence west along and upon the south line of said ¼ section, and the center line of the Geneva Road (Highway 5"50") so-called, a

distance of 100 feet: thence running north, parallel with the east line of said ¼ section 165 feet: thence running east, parallel with the south line of said ¼ section, 165 feet to the place of beginning, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin. Tax Parcel Number: 60-0810-284-0504-2 (the "Property") .

Petersons are contractually obligated as a condition precedent to closing to construct at their sole expense as to insure the construction of an extension of 74th Street (the "Roadway") to provide ingress and egress to the Property and other properties at the location shown on Exhibit A, in accordance with the terms and specifications of the Village of Pleasant Prairie Developer's Agreement a *draft* of which is attached as Exhibit B.

PDQ is ready, willing and able to fulfill the terms of the Contract, but needs to be assured that the driveway is timely and completely constructed at the location shown on Exhibit A in accordance with a Developers Agreement approval by all authorities having jurisdiction over the Property who are required to approve the Developers Agreement and the completed Driveway:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged by each, PDQ, Petersons and Kenosha Title agree as follows:

1. ESCROWED FUNDS, Kenosha Title is hereby appointed Escrow Agent, to hold in a separate escrow account, the sum of Two Hundred Thirty Thousand Dollars ($230,000.00) (the "Escrowed Funds") which represents 115% of the estimated cost of the Roadway.

2. DEPOSIT IN ESCROW, PDQ shall deposit with Kenosha Title, at closing on March 21, 1997, the sum of Two Hundred Thirty Thousand Dollars ($239,000.00), which sum would otherwise have been paid to Peterson, which shall be shown on the Closing Statement, as an amount deducted from the amount due Petersons. Petersons consent to such deposit in Escrow by PDQ and a corresponding deduction of the amount due Petersons, subject to the terms and conditions of this Escrow Agreement.

3. SECURITY, Kenosha Title shall deposit with Advantage Bank, F.S.B., in an interest bearing EAGLE checking account the Escrowed Funds for the benefit of PDQ to secure Petersons performance under this Escrow Agreement. All interest shall be payable to the Petersons. If Petersons shall fail to comply with the terms of this Agreement applicable to them, Kenosha Title shall pay over the entirety of the Escrowed Funds to PDQ. Each party releases Kenosha Title from all liability hereunder, except for its acts of gross negligence or willful misconduct.

4. PETERSONS PERFORMANCE. Petersons shall timely construct the Roadway at the location and in the manner described in the draft of the Village of Pleasant Prairie's Developer's Agreement attached as Exhibit B. Any changes to the ***draft*** Developer's Agreement caused by any person or entity as a condition of approval of the ***final*** Developer's Agreement must, in form and substance, be mutually acceptable to PDQ and Petersons in the exercise of their reasonable business judgment.

In the event Kenosha Title is instructed to hold the Escrowed Funds as provided, Kenosha Title shall disburse the Escrowed Funds *or* such portion of the Esc D. nds as Kenosha Title is holding to Petersons or the P. ignee when Kenosha Title is informed in writing by the Village of Pleasant Prairie that the Roadway has been completed and accepted by approving authorities. Notwithstanding any proceedi JUNE ntrary, the Roadway must be completed not later than 15 y 1, 1997, PDQ shall be entitled to construct the Roadway in accordance with the Developer's Agreement and to uti JUNE rowed fun 15 ndertake and complete construction of the Roadway. Additionally, in the event the "Binder Course" is not completed by Octob M.97, PDQ sball be entitled to construct the Roadway in accordance with the Developer's Agreement and M . lize the escrowed funds to undertake and complete construction of the Roadway.

Hand Written Itinatials JA LH

Jerry Archer and Loretta

5. GENERAL PROVISIONS.

A. GOVERNING LAW This Agreement may be amended or modified only by written instrument executed by both of the parties hereto.

B. MODIFICATIONS. This Agreement may be amended or modified only by written instrument executed by both of the parties hereto.

C. NOTICES. All notices, consents or other instruments or communications provided for under this Agreement shall be in writing, signed by the party giving the notice, and shall be deemed properly given and received when delivered by messenger, tele-copier, overnight commercial carrier regular mail and actually received or, on the third business day after mailing, if sent by certified mail, return receipt requested, postage prepaid, to the address of the party set forth below or to such other address as such each may designate by written notice to the other party given in accordance with the Paragraph (C).

If to PDQ:

PDQ Food Stores, Inc.
Attn: Randy Manning
P.O. Box 620997

8383 Greenway Boulevard
Middleton, WI. 53562-0997
Phone: (608) 836-3335
Facsimile: (608) 836-8233

If to Petersons:

Dennis and Maria Peterson
8800 75th Street
Kenosha, WI.
Phone: (414) 694-2031

If to Kenosha Title:

Attn: Steven R. Schneider
520 58th Street, Suite 1
Kenosha, WI. 53140
Phone: (414) 654-9141
Facsimile: (414) 654-1492

With a contemporaneous copy or
Electronic transmission to:

Michael, Best & Friedrich
Attn: Richard C. Glesner
P.O. Box 1806
One South Pinckney Street
Madison, WI. 53701-1806
Phone: (608) 257-3501
Facsimile: (608) 283-2275

With a contemporaneous copy or
Electronic transmission to:

John Mann de Kok
Phillips, Richards, Mayew

& Corrigal, S.C.
1025 56th Street
Kenosha, WI. 53140
Phone: (414) 658-4604
Facsimile: (414) 658-9346

(D) CAPTIONS AND HEADINGS. The captions and headings of various sections of this agreement are for convenience only and are not to be construed as confining or limiting in any way the scope of intent of the provisions of this Agreement. Whenever the context requires or permits, the singular shall include the plural, and plural shall include the singular and masculine, feminine and neuter shall be freely interchangeable.

(E) SEVERABILITY OF PROVISIONS, In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if the invalid, illegal or unenforceable provision had never been contained herein.

(F) TIME IS OF ESSENCE. Time is of the essence.

(G) COUNTERPARTS: This Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

(H) LITIGATION. In connection with any litigation arising out of this Agreement, the

prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.

(I) BINDING EFFECT. This Agreement shall be binding upon and shall incur to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns.

IN WITNESS WHERE OF , the parties hereto have executed this agreement as of the date first above written.

PDQ FOOD STORES, INC.

Date: 3-21-97 "S/" By: "S/" Jerry Archer
Executive Vice President

Date: 3-21-97 "S/" "S/" Dennis L. Peterson

Date: 3-21-97 "S/" Maria L. Peterson "S/"

Date: March 21, 1997 "S/"

By: "S/" Loretta Homeyer ?

Drafted by: Michael, Best & Friedrich
Richard C. Glesner
One South Pinckney Street
P.O. Box 1806
Madison, Wisconsin 53701-1806

e:\xf/client/73139/0021/tmd0216.w62/3/21/97

Jul-9-97 10:37 From MICHAEL BEST & FRIEDRICH 6082832275 T-692 P.06/08 Job-107
Facsimile at top of Page

KENOSHA TITLE SERVICES, INC.

"S/" Date: March 21, 1997

By: "S/" Loretta Harmeyer ?

July 9, 1997 THIS AGREEMENT IS NOW ADDED TO THE FIRST PART OF ROAD ESCROW AGREEMENT

Created on July 9, 1997

ADDENDUM

This addendum is made and entered into between the following parties to this Escrow Agreement to which this Addendum forms a part for the following limited purposes:

1. To add the Village of Pleasant Prairie (the "Village") as a named party of this Escrow Agreement and additionally as a signatory to this Escrow Agreement.

• The following provision shall be deleted from this Escrow Agreement:

> "Any changes to the draft Developers Agreement caused by any person or entity as a condition of approval of the final Developers Agreement must, in form and substance, be mutually acceptable to PDQ and Petersons in the exercise of their reasonable business judgment."

• The Developers (Development) Agreement which is referenced as Exhibit B shall be the Development Agreement between the Village of Pleasant Prairie and Dennis and Maria Peterson which boar a revision date on the face page of 7/2/97.

The following provision shall be added to paragraph 4 of this Escrow Agreement:

Not withstanding any provisions Of this Escrow Agreement to the contrary, PDQ agrees that the Village shall be entitled to draw JA upon the Escrow funds in the manner and for the purposes provided in the Development Agreement (Exhibit B) in paragraph 6 Escrowed cash reserve account at pages 37, et seq. without obtaining additional or further

authorization of PDQ.
Hand Written Initials of Jerry Archer

3.. Paragraph 5 of this Escrow Agreement shall add the Village as an additional party entitled to receive notice when and in the manner notices are required by this Escrow Agreement. The Village shall appear in the following manner.

If to the Village:

MICHAEL R. POLLOCOFF
Village Administrator
VILLAGE OF PLEASANT PRAIRIE:
9915 – 39th Avenue
P.O. Box 905
Pleasant Prairie, WI. 53158-0905
Phone: (414) 694-1400
Facsimile: (414) 694-4734

Except as expressly modified by this Addendum the terms, provisions, covenants and conditions of this Escrow Agreement shall remain unchanged and shall continue in full force and effect.

This Addendum is entered into by and between the following parties this 9th day of July 1997.

PDQ FOOD STORES, INC.
By: "S/" Jerry Archer
Executive Vice President

July-9-97 10:38 From: MICHAEL BEST & FREIDRICH 608283275 T-692 P. 08/08 Job -107

PETERSONS

"S/" Dennis L. Peterson

"S/" Maria L. Peterson

VILLAGE OF PLEASANT PRAIRIE

By: No Idea who's signature

Hand Written

E:\xf\client/73130\0021\all0467.w52/7/8/97

NO dates on signature page NO notary
This portion was signed by Peterson's
On July 9, 1997 at the Village

ESCROW AGREEMENT

This Agreement is made as of this 21st (Hand written) day of March, 1997, by and between **DENNIS L. PETERSON AND MARIA L. PETERSON, HUSBAND** and **WIFE** ("Exchangers"), **PDQ FOOD STORES, INC.**, a Wisconsin corporation, ("Purchaser"). And ADVANTAGE BANK, F.S.D. ("Escrowee").

RECITALS

Exchangers and Purchaser entered into an Agreement (the "Exchange Agreement") Exchangers and Purchaser entered into under date of August 20, 1996, which contemplated in part that Exchangers would convey to Purchaser, in exchange of like kind property pursuant to section 1031 of the Internal Revenue Code of 1986, that certain parcel of real estate situated in Kenosha County, Wisconsin, as more particularly described in the Exchange Agreement (the "Property") the legal description of which is attached hereto as Exhibit A, in exchange for one or more parcels of improved or unimproved real estate to be acquired by Purchaser (individually "Exchange Property" and collectively "Exchange Properties").

Exchangers has not yet identified and selected sufficient Exchange Properties to complete the exchange for the Property and wishes to complete the first part of this exchange by transferring the Property to Purchaser this day in accordance with the Exchange Agreement. Exchangers and Purchaser hereby establish the escrow as

hereinafter provided to secure Purchaser's obligation to complete the exchange in accordance with the Exchange Agreement and Escrowee is willing to act as the escrow agent under, the terms of this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE RESPECTIVE UNDERTAKINGS OF THE PARTIES HEREINAFTER SET FORTH, AND OTHER GOOOD AND VALUABLE CONSIDERATION, IT IS HEREBY AGREED:

1. In order to secure Purchaser's obligation to complete the exchange in accordance with the Exchange Agreement, Purchaser hereby deposits into escrow the sum of $ _____ (Blank) (Escrowed Funds"). By Purchaser, as, and if necessary, and, as if so elected by Purchaser, to satisfy Purchaser's obligation to expend the amount of $ _____ (Blank) (the "Adjusted Agreed Value Balance") to purchase

   (i) Exchange Properties identified by Exchangers prior to the date of this Agreement but not purchased by Purchaser as of such date and/or

   (ii) Any additional Exchange Properties identified by Exchangers within forty-five (45) days after the date of this Agreement, with each such Exchange Property to be acquired by Purchaser at the purchase price and upon such other terms and conditions,

including but not limited to conditions of, title, as shall have been approved by Exchangers, and simultaneously conveyed by Purchaser to Exchangers upon the same terms and conditions (except that the conveyance from Purchaser to Exchangers shall be by special warranty deed) as promptly as possible after being identified by Exchangers, but in no event later than one hundred eighty (180) days from the date of this Agreement.

If, on the date forty-six (46) days from this Agreement, Exchangers has not identified Exchange Properties having a total Purchase Price (Plus estimated closing costs) equal to or exceeding the Adjusted Agreed Value Balance, the Exchangers has so notified Escrowee, than Escrowee shall pay the excess of the Adjusted Agreed Value Balance (plus interest earned thereon) over the total purchase price of identified Exchange Properties (plus estimated closing costs) the Exchangers. At all times during the terms of this escrow, Escrowee shall be entitles to release the Escrowed Funds, in one or more payments, only upon and in accordance with the written instructions of Purchaser, as approved in writing by Exchangers. Except to the extent hereinabove provided, in no event shall Exchangers have use or control of the Escrowed Funds prior to the date which is one hundred eighty-one (181) days from

the date of this Agreement. Any Escrowed Funds (plus interest earned thereon) remaining in escrow after the one hundred eight-first (181) day from the date of this Agreement shall be paid forthwith to Exchangers.

3. Escrowee shall either purchase United States Treasury obligations with the Escrowed Funds or deposit the Escrowed Funds in an interest-bearing account or certificate of deposit as directed by Exchangers. All interest earned on the Escrowed Funds shall accrue to the benefit of Exchangers and shall either be used to purchase Exchange Properties or paid to Exchangers as provided in this Agreement.

4. Escrowee shall have no liability to the other parties to this Agreement except for gross negligence or willful misconduct in carrying out its duties, obligations and liabilities hereunder. Escrowee is hereby expressly authorized to obey any order entered by the court or competent jurisdiction after all time periods for appeal have been exhausted directing Excrowee to disburse the Escrowed Funds. In the event Escrowee should become involved in any litigation or adverse claims by reasons of the provisions of this Agreement, it shall be entitled to recover its costs incurred, plus reasonable attorneys fees, for the projection of its interests, from Exchangers.

5. Exchangers hereby indemnify, hold harmless, and will defend Purchaser from and against any and all actions, suits, claims, charges, costs, losses, damages, liabilities, expenses, including costs of Investigation, court costs, and

attorney's fees and disbursements, that may be incurred by, brought against or imposed upon Purchaser arising from or related to its actions hereunder and any liability it may incur as a result of taking title to the Exchange Properties, including any litigation in connection with this Agreement, notwithstanding the preceding provisions of this Paragraph five or any other provisions of this Agreement or any other agreement, This indemnification shall include, without limitation, any and all consequential damages arising, there-from and shall survive the closing of the sale of the Exchange Properties indefinitely.

Exchangers acknowledge and agree that if for any reason, in the sole exercise of Purchaser's reasonable business judgment, Purchaser deems it inadvisable to take title to the Exchange Properties, Purchaser shall not be required to take title to such Properties by this Agreement or any other agreement which may exist with respect to the subject matter of this Agreement.

In the event Purchaser elects to take title to the Exchange Properties, that Purchaser shall have the right to demand that Exchangers provide evidence in form and substance, acceptable to Purchaser and its counsel that the Exchange Properties are free of environmental contamination and that there is currently no hazardous substances stored improperly of the Properties and that no hazardous substances have been released onto the Properties. Purchaser shall be provided with such evidence at the sole expense of Exchangers and such evidence may

take the form of, but shall not be limited to, an appropriate Environmental Audit.

6. In the event Purchaser elects to take title to the Exchange Properties, Purchaser shall not be required to make any warranties or representations regarding the Exchange Properties which survive, as to Purchaser, following the conveyance date of the Exchange Properties, Further, Purchaser shall not be required to make any warranties or representations regarding the Exchange Properties which are not guaranteed by Exchangers.

7. This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin. It is the intention of the parties that this Agreement implements the Exchange Agreement.

8. This Agreement is irrevocable and the Escrowed Funds may be applied only to the purposes expressed herein. Purchaser and Escrowee acknowledge that they are not Exchangers' agent with respect to any aspect of any exchange under this Agreement or the Exchange Agreement.

9. Any notice which a party to this Agreement is required or may desire to give the other shall be in writing and may be personally delivered or given by United States registered or certified mail, return receipt requested, addressed as follows (subject to the right of a party to

designate a different address for itself by notice similarly given).

TO EXCHANGERS:

DENNIS L. PETERSON &
MARIA L. PETERSON
C/O Attorney John Maan de Kok
1025 - 56th Street
Kenosha, WI. 53140

TO PURCHASER:

PDQ FOOD STORES, INC.
Att: Randy Manning
P.O. Box 620997
Greenway Blvd.
Middleton, WI. 53562-0997

W/COPY TO:

MICHAEL, BEST & FRIEDRICH
Attn: Attorney Richard Glesner
P.O. Box 1806
One South Pinckney Street
Madison, WI. 53701-1806

TO ESCROWEE:

ADVANTAGE BANK, F.S.B.
5935 - 7TH Avenue
Kenosha, WI. 53142

Except as otherwise provided herein, any notice so given by united States mail shall be deemed to have been given on the day after the same is deposited in the United States mail as registered or certified matter, addressed as above provided, with postage thereon fully prepaid. Any such notice not given by registered or certified

mail shall be deemed given upon receipt of the same by the party to whom the same is to be given.

This agreement has been executed by or on behalf of the parties hereto on the day, month and year first above written.

EXCHANGERS:

"S/" Dennis L. Peterson

"S/" Maria L. Peterson

PURCHASER:

PDQ FOOD STORES, INC.

By: "S/" Jerry Archer
Executive Vice President

EXCROWEE:

ADVANTAGE BANK, F.S.B.

By: "S/" Michael A Tenuta

Vice President

NO drafter by
NO dates on signatures
NO notary
NO dollar amount

KENOSHA COUNTY CIRCUIT COURT
BRANCH 5 COURT TESTEMONY
November 20, 2006

Ms. Jean Werbie

Questions by Mrs. Peterson
Pages 201 -

A. lines 1- 10 is typically with the Title Company or with the Bank or someone to secure the financial means for the letter of credit or escrow account. That's typically the first closing. And sometimes than there's a second closing which we refer to as our closing with the Village. In this case I knew that there was a closing with you and PDQ in March of 1997 and that you were intending to have a second closing to convey the property back from PDQ to the Petersons for the purpose if our closing. So that could have been what I was referring to at that point.

Q. Lines 11-12 Who would have informed you of this ? Would that have been the title company ?

Mr. Aiello: Objection, hearsay.

By Mrs. Peterson:

Q. Lines 15-16 Would it have been the Title Company or the Attorney or the Realtor or --

The Court: lines 17-18 I'm going to sustain the objection. It's hearsay about who told her about it.

By Mrs. Peterson:

Q. Lines 20-21 Do you recall handing us a deed that evening on July 7, 1997 - - July 9. Excuse me. July 9th.

A. Lines 22-25 Page 202 Line 1 The closing documents were all in order. And a copy of the closing documents were supposed to have been provided both to you and Mr. Maan de Kok. I believe in the closing documents there was a deed, but I believe it was a deed of July 7, and it was not yet recorded.

Q. Line 2 It was not recorded yet?

A. Line 3-4 No. It was a copy that I had as part of my closing documents.

Q. Lines 5-6 So it was a June Deed or a July 7th deed? Was it PDQ to the Peterson or Peterson's to PDQ?

Mr. Aiello: Objection, Leading.

The Court: No, it's one or the other. Do you know which one it was?

A. Line 1-11 Can I refer to my closing documents?

The Court: Sure Help yourself. It's an open-book test.

A. Lines 14-18 This was a quitclaim deed made between PDQ Food Stores, Grantor, and Dennis L. Peterson and Maria L. Peterson. So it was the documentation that I needed from Mr. Mann de Kok to verify that the property was back in the Petersons' ownership

Q. Lines 20-21 Do you recall how it came about that the Petersons became the developer instead of the PDQ?

A. Lines 22-25 Page 203 1-22 The Village of Pleasant Prairie had been working with Mr. Maan de Kok, who was your representative and your attorney on the project. And from the Village's perspective, it was our understanding from him that initially PDQ was going to be the Developer of the project. And so the initial agreement and discussions I had initially with Man De Kok were that PDQ was going to be the developer of the project. As our discussions continued and draft development agreements went back and forth and discussions continued between myself, Mr. Glesner, Mr. Maan de Kok, there was further discussion that PDQ did not want to be a party to the development agreement. And as a result, they were suggesting some language in the spring of '97 that I could incorporate into the development agreement that I had drafted. And it was not clear in my mind as to whether or not that would be acceptable language to the Village. I consulted with the Village's attorney, Don

Mayew, and he suggested that that language not be included. So I had a conversation with John Maan de Kok, several of them, and explained to him and Mr. Glesner that the language that they had proposed was not acceptable. And at that point there was further discussion with respect to the Petersons being the developer of the project.

Q. Lines 22-23 Were you aware that the Petersons had fired Mr. Maan de Kok in April?

A. Line 24 No

The Court Line 25 Of what Year?

Mrs. Peterson 1997

A. Page 204 Line 2 No.

Q. Line 4 So he continued to represent himself as our Attorney.

A. Line 6 At that time, correct.

Q. Line 7-8 On the Exhibit A of the developer's agreement - -

Mr. Aiello: Line 9-10 Which exhibit number are we talking about?

Mrs. Peterson: 11-12 You won's have it. We have the only two copies. These were all signed at her table.

A. Lines 13-14 These are all the exhibits, your honor.

Mrs. Peterson: Lines 15-16 I asked Ms. Werbie to bring them

The Court Lines 17-18 These are your exhibits to the closing file ?

A. Line 19 That's correct.

The Court: Line 20-22 If there are court exhibits there with court stickers on them, make sure you keep those separate.

A. Line 23 Right. I'm doing that

The Court; Line 24-25 More than one witness has walked off with court exhibits. We don's want that to happen. I'm not sure what the question is. You asked her does she have Exhibit 8 in her closing papers

Mrs. Peterson Yes. Do you have it?

The Court: If you do, perhaps you can identify it.

A. Line 6 Yes I do.

Q. Lines 8-9 Your developer's agreement was all numbered A through O. Is that correct?

A. Line 10-11 Yes the exhibits to the development agreement were labeled A through O.

Q. Lines 12-13 So we know exactly what was signed on that day?

A. Lines 14-15 All these documents were in the office that day. Not every one required a signature.

Q. Lines 16-17 Okay. On Exhibit A, Crispell-Snyder, October 29, 1996 - -

Mr. Aiello: Lines 18-21 Judge, before we proceed, I think I'm entitled to a copy of the document so I can follow along with what's being said. I haven't been supplied with that.

The Court: Line 22 You don't have extra copies here?

Mrs. Peterson: Lines 23-25 No, I don't. I asked Ms. Werbie to bring her copies because I wanted to compare mine with hers.

Court: Lines 1-3 If we're going to be talking about an exhibit here, perhaps we should have copies made.

Witness Line 4 Exhibit A is 16 pages.

The Court: Line 5 16? Madan Clerk, would you mind?

The Clerk: Line 6 How many copies?

The Court: Lines 7-8 Three copies. Go ahead. You can ask some questions while we - -

Q. While we're waiting for that, the certified survey map that was in the developer's agreement, it say "Certified for." And who was it certified for?

The Court; Lines 13-14 This is an attachment to the developer's agreement?

A. Line 15 It is.

The Court Lines 16-17 Is it given an exhibit number or an attachment number/

A. Line 18 Yes

The Court; Line 19 What would it be?

A. Line 20 Exhibit C.

The Court: Lines 21-23 Exhibit C to the developer's agreement. Okay. See, when you identify it that way, then there's no question.

Mrs. Peterson Okay

The Court: Line 25 All right. Who was Exhibit C to the developers agreement prepared for ?

A. Lines 2-4 It was surveyed for the PDQ Foods Store, Inc. And then for the Owners , my copy is listed "Dennis and Maria Peterson, PDQ Food Stores, Inc."

Mrs. Peterson: Lines 6-8 That's not what I have on my copy. This says "Certified for Dennis

and Maria Peterson, Owners, Dennis and Maria Peterson, May 23, 1997".

A. Lines 9-20 I guess what I can say is that the most current copy that I had received from Mr. Maan de Kok was used to make the closing document exhibits. And one of the statements that I had made to Mr. Maan de Kok is that while we're including these as exhibits to the development agreement, all of the appropriate sheets need to be included prior to recording. And I believe that that was one of the conditions of the Village Board's approval because they had some ministerial conditions of their approval.. And one was to make sure that all of the certified survey map pages accurately represented the owner of the property.

The Court; Lines 21-23 That same survey she's referred to that's been made for PDQ is attached in your Exhibit 11.

Mrs. Peterson line 24 Yes.

Q. Line 1 Page 208 Do you recognize this .

The Court: Lines 2-3 Your holding up what appears to be an engineer's plat.

A. Line 4 Yes.

The Court: Line 5 Is that from Crispell-Snyder?

A. Line 6-10 That is part of Exhibit B to the development agreement, and what it is is the

engineering plans for the required public improvements that were prepared by Jewell & Associates, inc., Engineers-Surveyors-Architects, for 74th Street.

Q. Line 12 Okay. And the owners are?

A. Lines 13-14 The owner is listed as Dennis L. and Maria L. Peterson.

Q. Line 15-16 And to your knowledge, was there ever another certified survey map created for that property?

A. Lines 17-19 There were multiple drafts to the certified survey map prepared for the property. To my knowledge, only one was recorded.

Q. Lines 20-21 And which one was it? Which one was recorded?

A. Lines 22-25 It's not in my closing documents here. I did bring a copy that's in my briefcase that has the recording information on it. I could get that if the Court needs me to.

The Court: Line 1 page 209 Do you want that information?

Mrs. Peterson: Line 2 If she can just tell us.

Ms. Werbie; Lines 3-4 I can't Your Honor, without going to get it and looking at it.

The Court: Line 5-6 Then would you mind doing that? Just watch your step getting down.

Recess was taken.

The Court: Lines 8-9 Ms. Werbie, you've retrieved that document?

A. Line 10 Yes, I have.

The Court; Lines 11-12 And who is listed as the owner on that document?

A. Lines 13-14 Dennis L. and Maria L. Peterson on the front page.

The Court: Line 15 What's the date of it?

A. Line 16 The recording date?

The Court : Line 17-18 No, the date of preparation. The upper left-hand corner probably.

A. Line 19-21 The date up in the upper left-hand corner says May 23, 1997, but I'm trying to read the date from the surveyor. It looks like 7/7/97.

The Court: Line 22 Okay, Thank you Go ahead. Mrs. Peterson

Q. Line 25 and did we sign that Certified Survey map at your table?

A. Page 210 lines 2-4 Yes, you did. Well, let me take a look at it real quick. You did not

sign it at my table because the signature was notarized by Amanda Johnson

Q. We did sign it.

A. Lines 6-7 It looks like Amanda Johnson notarized your signatures.

Q. Line 8 Okay. My recollection - -

The Court: Lines 9-10 Are you testifying now or are you going to ask her a question?

Q. Line 12 May I see the ink on your signature, Please?

A. line 13 On the one at the closing?

Q. Line 16 For the certified survey map.

A. Line 15 This is the one at the closing?

Q. Line 16-17 Yes. They are all in black ink. Is that correct?

A. Line 18 Well, this is a copy.

Q. Line 19 You don't have the original with you?

A. Line 20 no, I don't.

Q. Line 21 This is an original

A. Line 22 I don't have the original certified survey map.

Q. Line 24 Then what you have is a copy of mine.

The Court; Line 25 You have to speak louder.

Q. Page 211 Lines 3-5 What you have then is a copy of mine because this is an original signature. This is what I went home with.

A. Line 5-8 The exhibits are all copies. The original went with John Maan de Kok to the title company for recording.

Q. Line 9-10 When I left your office, these are all the papers I went home with.

A. Line 11 That's correct.

Q. Line 12 They could not have been copies.

The Court; Line 13 They could not have been copies?

Mrs. Peterson Line 14 We signed them there that day.

The Court; Line 15 Okay.

Mrs. Peterson: Line 16 These are original signatures.

The Court: Line 17-18 You see, you're testifying again. You need to ask her a question.

Q. Line 20-21 I'm asking are these original signatures that were placed on these papers at you office?

A. Lines 22-25 What I can tell you is you signed the original certified survey map. I don't know if those are original signatures. They look similar to mine, and mine is a copy of the original certified survey map.

Q. Page 212 Lines 1-2 I'm looking for another one that would have a signature. Let me know if you find one before I do.

A. Line 3-5 There's two documents that you signed, other documents. The Development Agreement and the Memorandum of the Development Agreement were both signed at my office.

Q. Line 6 And what color is the ink on your copies?

A. Line 7-10 Black on the Development Agreement. And there's no exhibit to the Development Agreement. That doesn't have an exhibit letter to it. Exhibit N is the Memorandum of Develoment Agreement.

The Court: Lines 11-12 You're showing the witness a document now. What is the document you're showing her?

Mrs. Peterson: This is the third revision of the developer's agreement. This was signed on Ms. Werbie's table. And as you can see, they

were in ballpoint pen. One is a darker black and one is a lighter black. Is that what you have?

A. Line 18-19 Yes, but ther're still black.

Q. Line 20 They're still black?

A. Line 21 That's correct. And the Memorandum is with black as well because it's typically my policy that we use black pen to do all closings.

Q. Line 24-25 I remember everyone specifying they must be black.

REDIRECT EXAMINATION

Page 229
Ms. Werbie

A. Line 12 May 29th?

The Court : Line 13 Yes

A. I have the letter.

Q. Line 16-7 Okay. It's written to John Maan de Kok from Mr. Glesner, "Dear John: I suggested - - "

The Court Lines 18-19 You don't have to read it. We can read it. Do you have a question about it?

Mrs. Peteson Lines 20 22 Yes

Q. Did you put the notations of the side?

A. Line 23 I did.

Q. Line 24 you did. And what do they say?

A. Line 25 The one below says "NO. PDQ is a party to the agreement. Modify the language or reference a separate agreement.

Q. Page 230 Line 1 And what is the date that was done

A. Line 4 June 24, 2997 and my name is there. It's cut off

Q. Lien 5-6 and on the far right, "The Village - - " What does it say?

A Lines 7-10 "The Village won't assume any - - " I'm not sure what my last word would have been, maybe "liability, " "responsibility." I'm not sure. I'm not sure what my last words was.

Q. Line 11 You do recall that letter?

A. Line 12 I do.

The Court: line 13-18 The upshot of your notation on there was to advise Mr Maan de Kok and Mr. Glesner that in its present form, the agreement was not acceptable, that there would have to be either a separate agreement

between the parties or PDQ would have to be a party to the developer's agreement?

A. Line 19 That's correct.

The Court Line 20 Okay. There you go.

Q. Line 22-23 Was there a reason why the Village and yourself were so adamant against this Paragraph 55 ?

A. Line 24 Yes.

Q. Line 25 Would you tell us?

A. Page 2311-6 It was our collective opinion that anyone who signs a document may have some liability and responsibility associated with the improvements or references within the Development Agreement. And in my mind, just signing the document without having any responsibility served no purpose.

Q. Line 7-9 Okay. And that is why the Petersons must be the owners, fee simple, is that correct, because then we would be taking the liability?

A. line 10-14 You would have been acting as the developer. Whoever the owner was the developer. And that would be the party that secured the funds through an escrow agreement that the Village could draw on to pay for the public improvements as needed.

Page 233

Q. Were you aware that there existed a June 7th deed Peterson's to the PDQ.

A. Line 3 No, I was not personally aware

Q. Line 4 You were not aware at that time?

A. Line 5 No

Q. Line 6-9 But you did realize that from March 21st until that July deed, PDQ was the owner of the property and were making all the requests for the road, the sewer, development, everything?

A. Lines 10-17 I was aware that they were the owner of the property. The request for the information, a lot of it was coming jointly from John Maan de Kok as well as PDQ . In order for the development to move forward, it needed to be abutting a fully improved Village road right-of-way with all the required public improvements. It couldn't happen without those improvements being secured and installed.

KENOSHA COUNTY CIRCUIT COURT
BRANCH 5

COURT TESTEMONY RICHARD C GLESNER
Page 49

Questions by Maria Peterson

Q. lines 1-3 "Sellers are selling the real estate described on attached Exhibit A to PDQ food Stores." Did I sell you Parcel A, Mr. Glesner ?

Mr. Aiello Objection

The Court: Lines 5-8 You wouldn't have sold it to him. You would have sold it to his client, PDQ but to the extent that your question calls for sale to his client you want to know did PDQ purchase Parcel A?

Q. Line 10 Did PDQ purchase that ?

A. Line 11-12 I'd need to see something further. I can't tell from the documentation

Q. Line 13-14 There is nothing further. That's it. That's your restrictive covenant. You wrote it. You filed it.

A. line 15 That's correct.

Q. line 16 And it says I sold Parcel A to PDQ

A. Line 17-18 I'd need to see a certified survey where it would show Parcels A, B, C.

Q. Line 19 Right on the cover.

The Court: Line 20-21 Would that be Exhibit 17? Is that what you're referring to?

Mrs. Peterson Yes

The Court Line23-25 Page 50 lines 1-3 With your permission, Ms. Peterson, I'm going to hand the witness Exhibit 17 which appears to be the Jewel Engineers, Surveyors-Architects Certified Survey Map of the parcel surveyed for you. I'm looking for a date on here. May 23 of '97, is that the one you want?

Mrs. Peterson: Line 4 Yes

The Court I'll hand the witness Exhibit 17. See if that helps you answer the question.

Witness Glesner : Lines 7-8 What was the question, please?

Q. line 9-11 The question was, "Sellers are selling the real estate described on attached Exhibit A to the PDQ Food Stores." Did the PDQ Food Stores purchase Parcel A ?

A. line 14 That is my understanding, yes.

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By Mrs. Peterson:

Q. line 2 It says "Affidavit by Richard Gleser"

A. line 3 I don't have a copy of it.

The Court: lines 4-5 Do you have the original Exhibit 8 there?

A. Line 6 Okay

Q. line 8-15 On the second page of that affidavit, you wrote, " The Petersons, represented by Attorney John Maan de Kok, and in the case of PDQ, solely upon the advice and representations of the Town and Attorney Maan de Kok, without which PDQ would not have so acted, agreed upon a series of overt documented transactions to re-convey the Property." You're saying that you were aware these were overt actions?

A. 16-20 What I meant by "overt" is that this was not something that was done without the knowledge of all parties involved in the transaction. It was not something - - Well, it was overt. Everyone knew about what was occurring or at least should have been aware.

Q. line 21 Everyone except the Petersons.

A. line 22 I don't know that.

Mr. Aiello: Line 23 Objection, Your Honor.

The Court: line 24-25 Again, that's a statement. You're saying you didn't know about it. He can't testify

KENOSHA COUNTY CIRCUIT COURT
BRANCH 5
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PAGE 9 , 10 , 11

Ms. Peterson lines 1-6

That exchange agreement, it was one later from when it was signed . I received a copy from Mr. Maan de Kok's file it had the spiral markings on the edge except on the page with the signatures. The signature page was just plain. It was injected into the copy that we received, and it was stapled together.

The Court: lines 7-9

Okay. That's not quite what I asked you. You've seen what PDQ now is holding out as being the exchange agreement?

Ms. Peterson lines 10-11

I haven't seen it. I've been asking and asking for a copy of this.

The Court; lines 12-14

I thought that was included in the papers. Sure, it was. It was included in the papers that were sent to you.

Mr. Dorn: lines 15-20

We certainly provided photocopies many times. There's only ONE original that I know of, so I did not mail that out. I did bring it along today to show them, but other than being the original rather than a photocopy,

it's exactly what has been presented many times.

The Court: lines 21-13
Wasn't that attached to Mr. Glesner's --- at least a copy of it attached to Mr. Glesner's affidavit?

Mr. Dorn: lines 24- page 10 line 4
There are many copies of forms of the document. There's nothing in there that hasn't yet been produced. Like I say, I took the extra step of bringing the literal original along today. If I had several of them, I would have mailed them out, but I don't. It's the only one I've got.

Ms. Peterson: lines 5-6
May I just ask, Mr. Dorn, where did you receive this, from whom?

Mr. Dorn: lines 7-12
As the affidavit states, as Mr. Glesner's affidavit states, it was in the records of Michael Best & Friedrich. Now, I wish that had come to light sooner. It failed to turn up in an earlier search, and I guarantee you I never suggested that anyone not produce that sooner, but a more thorough ---

Ms. Peterson: lines 13-14
You're saying that you received this from Michael Best & Friedrich?

Mr. Dorn: lines 15-18

Well, Mr. Glesner does, more importantly. I will represent to the Court I was there on the day when it was located, but we have Mr. Glesner's affidavit.

Ms. Peterson: lines 19-21

I questioned Mr. Means, Mr. Glesner's attorney, and asked him if he had a copy of this. He told me no.

Mr. Dorn: lines 22- page 11 line 1

I can't – I was not a party to that conversation. Conceivably what he meant was by that time, he had entrusted it to me so I'd be able to bring it here today, but that's only speculation. I know nothing about that conversation.

Ms. Peterson: lines 2-3

This a copy of the exact same one that I gave to Mr. Archer is what I'm asking.

Mr. Dorn: line 4

I don't know what that means.

Ms. Peterson: line 5-6

Other than the signature being in blue rather than in black.

Mr. Dorn: lines 7-9

Well, that's an original. Photocopies ordinarily are in black and white. That's an original with blue ink.

Ms. Peterson: line 10-12
Okay. This is an original with blue ink. However, the signature page was inserted. It was not with the original spiral binding.

Mr. Dorn: lines 13-14
I'm not sure I understand the question, You Honor.

The Court: lines 15-17
It sounds more like a statement. You're saying that the exchange agreement signature page was inserted later?

Ms. Peterson: lines 18-19
It was inserted at a later date, yes, sir.

The Court: lines 20-21
But what I need to know is are those your signatures?

Ms. Peterson: lines 22-23
Those are my signatures. We never saw this document.

Mr. Peterson: line 24
Why is it not notarized?

KENOSHA COUNTY CIRCUIT COURT
BRANCH 5
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Page 138

Mr. Glesner : line 1
Then it goes on to indicate volume, page, et ceters.

Mr. Aiello: lines 2-3 Q
And what date was it recorded with the Kenosha County Register of Deeds?

A. July 21, 1997.

Q And is that then consistent with the instructions you had given Mr. Schneider in your letter of July 18th?

A It's entirely consistent.

Q Mr. Glesner, are Exhibit 16, which is the quitclaim deed from PDQ to Petersons, and then Exhibits 19 all the way through and including Exhibit 28 all consistent with the Agreement to Exchange Conveyances which is Exhibit 18?

A they're all consistent with the exception of the date

Mr. Aiello: lines 16-18
Judge, I have no other questions. I would like to offer into evidence Exhibit 16 and then 18 through and including 28.

The Court: lines 19-21

Okay. Ms. Peterson, they've offered those exhibits into evidence. Do you have any objection?

Ms. Peterson: line 22-23

Fine. Are you keeping the agreement to exchange?

The Court line 14

In the red folder?

Ms. Peterson: line 25

Yes.

KENOSHA COUNTY CIRCUIT COURT
BRANCH 5
Date of Hearing: November 21, 2006
Pages : 51 , 52 , 53 , 54

Ms. Peterson lines 13-15
Q Okay, Two last questions of you Mr. Archer. Do you recall where were you when you signed the Agreement to Exchange Conveyances:

A No.

Q You don't recall where you were?

Mr. Aiello: line 18
Asked and answered.

The Court: line 19
Sustained.

Ms. Peterson: Line 20-22
Was it in book-bound form or was it just stapled together?
A I don't recall

Q You don't rell it at all.

The Court: line 25 Page 52 line 1
Is that a statement or a question?

Ms. Peterson: I'm asking him.

Q You don't recall it at all. Do you recall who was present ?

A No.

Q Is it possible that you never signed it?

A My signature's on the agreement.

Q Okay. Your signature is in there in black or is it in blue?

A Blue.

Q Your signature's in blue? Yesterday it was in black.

Ms. Peterson: line 14 page 52
Ah, Mr. Aiello. You went in back and got it. How sweet.

Mr. Dubis: line 16
What's she talking about?

Ms. Peterson: lines 17-18
These signature are all in blue

Mr. Peterson: line 19
We showed this one yesterday.

Ms. Peterson: lines 20-23
This is not the one that Mr. Aiello had yesterday. This is a second one. In fact, the binding is even different. It's not even the same type of binding.

The Court: lines 24-15
Has one of the exhibits been replaced?

Mr. Aiello: line 1-2
No, Judge, not at all, absolutely not.

Ms. Peterson: It's dated July 3rd. and at no point did the Petersons have blue ink when we were at the developer's agreement for the Village of Pleasant Prairie.

The Court: line 7
That's a statement.

Ms. Peterson: line 8-10
That positively is a statement. I'm sorry. I just wanted the Court to note that.

The Court: line 11-12
You can tell me at an appropriate time.

Ms. Peterson: line 13
Okay.

The Court: line 14-15
Do you have a question of the witness?

Ms. Peterson: line 16-17
No. That's all. I'm just happy to see this.

The Court: line 18-19
Good. Put it down there. Is there any clairification on this ?

Mr. Aiello: lines 21 to page 54 line 3
Judge, just in light of the fact – in light of the implied accusation made by Mrs. Peterson that I somehow switched or changed the exhibit, I will represent to the

Court as an officer of the court that this is the same exhibit I came to the courthouse with yesterday. I may have showed it in the hallway to Mrs. Peterson. I in no way altered this exhibit in any way, shape or form, substituted pages, dismantled it in any way, just so the record is clear.

Mr. Dorn: lines 4-8

Your Honor, I further represent as an officer of the court that is the exact same physical copy that I've represented in this courtroom very long since and was in my possession continuously until I convey it to Mr. Aiello very recently.

The Clerk: line 9-12

Judge, I had the exhibits sitting here on my counter right here.. And Mr. Aiello came this morning to take a look at it, but he didn't take anything out.

The Court: lines 13-15

The clerk says she's been in possession of those exhibits since yesterday and no one has substituted anything.

Ms. Peterson: lines 16-20

Fine. They probably didn't substitute anything in the document itself. I do want to clarify that during the court proceedings yesterday, I did point out that Mr. Archer's signature was in black and ours were in blue.

The Court: line 21
Well, okay.

Ms. Peterson: line 22
So at some point – okay.

The Court: lines 23-25
I don't know that that's true because we've been dealing with so many different documents. Your point is made, but I don't know that .....

KENOSHA COUNTY CIRCUIT COURT
BRANCH 5

Date of Hearing : December 2, 2005

Attorney Aiello
Attorney Dubis
Maria L. Peterson

Attorney Aiello

Page 12 lines 1-3
Title at that time. I can't answer that. Maybe somebody else can comment on that, but I can't. You asked if they're exactly the same. I don't know.

The Court Lines 4-25
See, part of this lawsuit now from the Peterson's perspective - - And I understand, Mr. Dubis you've just recently into this and haven't had the benefit of having attended these numerous court hearings involving the allegations made by the Peterson's here, but the Petersons keep coming back to this - - I think it's a June 7th deed as being the last recorded document. The issue to be decided is going to be probably whether that deed was given under an agreement and whether the effective date of that deed was misdated to be June 7th when it should have been July 7th because of a clerical error, and a number of other assertions here that deal with the dealings, including documents which are not of record, between the Peterson's and PDQ.

For anyone coming in as a bona fide purchaser and doing a title search, I think I can say with a

certain degree of certitude that the records in the office of the Register of Deeds would show the last title holder to be the Peterson's .
Clairification of that is something that needs to be done which is part of the quiet title action. But I'm talking about a disinterested third party coming in and searching the records and finding who owns the property of record. I think that would be the Petersons.

Mr. Aiello: Page 13 lines 2 - 8
Judge, can I ask a question? And I'm new to this as well. It was my understanding = = = I didn't bring my copies of the recorded documents. It's my understanding that that quit claim deed that's apparently dated June 7th was, in fact, recorded before the deed from the Petersons to PDQ. Bit of just - - - It bore a date earlier than the - - -

The Court : line 9 - 11
Well, I don't think it's the date of the recordation that stands. It's the date of the document.

Mr. Aiello: lines 12- 17
Oh, I don't know, Judge. What's a conveyance ? A conveyance - - In order to convey an interest in real estate, you need obviously to have document signed, but you need a delivery. That completes a conveyance. And delivery - - - One way to deliver is record.

The Court: line 18 - 19
Delivery and recording are separate things.

Mr. Aiello line 20 - 25
No I think there's - - I think you can deliver in actuality or you can have constructive delivery by recording. So I thought the Peterson to PDQ deed was the last deed recorded even though that deed bore an earlier date of execution than the PDQ to Peterson deed.

Page 14 The Court line 1
I think it was.

Mr. Aiello Line 2 - 4
If someone searched the title, the last recorded would be the Peterson to PDQ deed, quit claim deed.

The Court : line 5 - 14
I think you're right, but my point is I don't think it's the date of recording that controls. It happens frequently in title searches where there's multiple unrecorded documents, and those documents are filed at a later date or recorded at a later date. But that doesn't change the ultimate ownership at least of record. It simply fills in the gaps between transferor or thransferee to get to the last recorded document - - or the last most recently dated document, not the last recorded document.

I don't disagree that recordation can act as constructive delivery. But this hasn't been a case of constructive delivery, at least not to this point. It's been a case, from the Peterson' perspective, of having the last most-recently-dated document recorded before the document before it was recorded.

Mr. Aiello: Line 21 - 22
I don't know that anyone argued either of those points. Go ahead.

VILLAGE OF
PRAIRIE

Seal

Village Office of the
Community Development
Director
Jean M. Werbie

December 29, 2006

Mrs. Maria Peterson
5846 Spruce Creek Woods Dr.
Port Orange, Florida 32127

Dear Mrs. Peterson:

Pursuant to your December 20, 2006 facsimile transmission of a letter received by the Village of Pleasant Prairie, I am forwarding to you written responses:
PDQ Food Stores, Inc. ***Had never requested*** an approval of a Final Plat. A final draft of a Certified Survey Map (CSM) was submitted to the Village for consideration and approval. The draft CSM was submitted in June, 1997 for consideration on Monday, June 23, 1997 Village Plan Commission meeting and ***Monday*** July7, 1997 Village Board meeting. Attached are the Village Staff Comments and Recommendations for referenced meetings **See the Attachment)**. The CSM was recommended for conditional approval by the Village Plan Commission and Village Board at the referenced dates subject to conditions as outlined in the Village staff comments.

Attached to this letter is a copy of the CSM **(See the attachment labeled as EXHIBIT C)** that was presented to the Village and executed by the

parties for closing with the Village. It appears that the signature pages of the CSM were substituted with the corrected ownership names prior to it's recording at the Kenosha County Register of Deed's Office.

The Village does not typically issue a letter of approval for a Certified Survey Map. The minutes of the Village Board meeting constitute the conditional approval of the CSM **See the attachment labeled Village Board Meeting July 7, 1997, which refelects an excerpt of the Village Board Meeting Minutes of July 7, 1997).**

Should you have any further questions, please do not hesitate to contact the Village of Pleasant Prairie at (262-925-6717).

Sincerely,

"S/" Jean M. Werbie

Jean M. Werbie
Community Development Director

Letter to Peterson December 29. doc

SUPREME COURT OF WISCONSIN
BOARD OF ATTORNEYS
PROVESSIONAL RESPONSIBILITY

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WISCONSIN

COPY

February 3, 1999

Atty. John Maan de Kok
P.O. Box 677
Kenosha, WI 53141

Re: Grievance of Dennis and Maria Peterson

Dear Atty. Maan de Kok:

The Board of Attorneys Professional Responsibility considered the above-captioned grievance at its meeting of January 27, 1999. The Board concluded that in representing the Petersons in the sale of their property located in the Village of Pleasant Prairie (the Village), While another member of your firm represented the Village in other matters, without obtaining the written consent of both clients to the representation, you violated SCR 20L1.10(a), which states, "While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7, 1.8 (c), 1.9 or 2.2." The sale of the Peterson' property entailed their entering into a development agreement with the Village which covered the building of the 74th Street extension.

Therefore, had you been representing the Village, your conduct would have violated SCR 20:1.7(b) which states, "A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client . . . unless . . . (1) the lawyer reasonably believes the representation will not be adversely affected: and (2) the client consents in writing after consultation . . . "

Although the Board concluded that you engaged in misconduct, the Board believes the facts presented do not warrant discipline. . The Board voted, therefore, to dismiss this file with a caution to you.

You are hereby cautioned that you should not represent a client if the representation of that client may be limited by your or your firm's responsibilities to another client involved in the same matter, unless you reasonably believe that the representation will not be adversely affected and each client, after consultation, consents in writing to the common representation.

This caution does not constitute discipline, and as required by SCR 22.24(1) this agency must continue to treat our investigation and the issuance of a caution as confidential. Pursuant to SCR 22.04(2)(b), the caution will be retained in the Board files for one year. Should you engage in subsequent misconduct, the Board may take this caution into consideration in determining an appropriate disposition.

Please note that Board members Laura DeGolier and Atty. Adrian Schoone did not attend the meeting and therefore, took no part in the consideration of this matter.

Very truly yours,

"S/" Lorry C. Eldien

Investigator

LCE/lsc/DC1b
CC: Dennis and Maria Peterson
Atty. Harry Worth, Dist. #1 PRC
Atty. Phil Godin
Ms. Charlotte Chell

CIVIL COURT RECORD

Case # 2004CV000347
Hon Wilbur W. Warren III
Court Reporter - Janet M. Leibhan

May be found in Kenosha County Civil Court Record Maria L. Peterson V. PDQ Food Stores Inc. 2004CV000347

Motion hearing January 11, 2005

Appearances: Plaintiff Maria Peterson in Person (Pro Se) and Defendant's Attorney Kenneth Dorn by telephone (608-255-2409) Clerk C. Mosey, Minutes: Court finds no fraud or breach of contract and all causes of action sounding in fraud and/or in contract shall be dropped. Court on its own motion joins Dennis L. Peterson as party to this claim. The Declaration on Interest in real estate is valid - SS841.01 - any person claiming an interest in real property may maintain an action against any person claiming a conflicting interest and may demand a declaration of interest. Defendant to file an answer within 20 days - not later than 1-31-05 - failure to file answer within 20 days , Court shall grant summary judgment in favor of Plaintiff Maria and Dennis Peterson and against the Defendant PDQ. Court finds that the Quit Claim Deed of 7/7/97 filed with the Register of Deeds in Kenosha County to be the only properly filed Deeds to this property. A mediator will be appointed by Judge Warren. Summary Judgment taken under advisement and decision to be made. Matter set for Status Conference on 4/18/05 at 10:30 AM.

Attorney Kenneth Dorn to prepare order for Judge to sign. Cm

Motion hearing February 2, 2005

Appearances: Plaintiffs Maria and Dennis Peterson in person (Pro Se) and Defendant's Attorney Kenneth Dorn by telephone (608-255-2409) and Co-Counsel with Attorney Kenneth Dorn , Attorney Thomas Aiello in Courtroom. Attorney Michael Dubis for Lakeview Investments LLC. Clerk C. Mosey, Minutes: Attorney Dubis' Motion to Intervene As Party Defendants heard. Court heard arguments by all and grants Attorney Dubis' Motion to have Lakeview LLC Intervene As Party Defendants. Court instructs Plaintiffs to file amended complaint and all parties including Judge talked about who they feel should be joined as parties to this action. Defendant to have 45 days to respond to the amended complaint. Plaintiffs to file Lis Pendens in proper order with Register of Deeds. Attorney Dubis will have a title report done and give copy to the Plaintiffs. Attorney Thomas Aiello's Motion to Strike Plaintiff's Jury Demand will be heard on 2/24/06 at 9:00 AM - Attorney Thomas Aiello provided copies of his motion and brief in support of motion to the Plaintiffs, Attorney Michael Dubis, and filed a copy of each with the Court. PDQ or Lakeview LLC may not dever themselves of any interest while this action is pending. Jury Trial scheduled for January 3, 2006 At 8:30 AM is removed from Judge Warren's calendar Attorney Dubis will prepare order for Judge to sign. cm

STATE OF WISCONSIN
CIRCUIT COURT
BRANCH 5
KENOSHA COUNTY

FILED
Jan 10, 2005
Gail Gentz
Clerk of Circuit Court

Maria L. Peterson
Plaintiff

Case No. 2004CV000347

PDQ Food Stores, Inc.
Defendant

AFFIDAVIT OF DENNIS L. PETERSON

I Dennis Peterson place this in evidence as being my true recollection of the facts.

On March 21, 1997 I signed papers for the closing of the sale of the PDQ Food Stores Inc. My belief was that $230,000.00 was to be placed into a Trust Fund as my guarantee that I wuld not walk away from the project until my final sale of Parcel A was completed and that portion of the Roadway was paid for.

At no time was I aware of the Problems between the PDQ Food Stores Inc. and the Village of Pleasant Prairie.

The illegal all-purpose contract - Escrow Agreement / Road Agreement / Sales Agreement was signed on that day, and immediately whisked away and hidden. I received a copy three weeks later when I demanded a copy from Kenosha Title.

At no time did I personally write or speak the words that I would pay for the Roadway. It was my belief that Mr. Glesner and PDQ Food Stores Attorney, was making all requests and PDQ Food Stores would pay for their requests.

My supposed Attorney, Mr. John Maan de Kok, made no mention to the fact that he was the Attorney for the Village of Pleasant Prairie. Mr. Maan De Kok wrote to the Board of Responsibilities " in no way did I hurt my other client, the Village of Pleasant Prairie".

I refused all requests to give him my Power of Attorney. As a result, everything was done behind my back and without my consent.

The two June 7, 1997 Quit Claim Deeds are impossible Deeds. We were not in Wisconsin from May 9, 1997 Until July 7, 1997 Nor were we the owners on that day. PDQ tore down the building on that day.

Jean Werbie the Village Pleasant Prairie Director of Planning and Development assures us that the July 7, 1997 Deed is a good and valid Deed and conveys the property to the Peterson's husband and wife.

From July 7, 1997 to the present date Dennis and Maria Peterson have never drafted or signed or recorded a subsequent Deed conveying the property in question to any person or person's . Nor have we been asked to.
Dated this 29th day fo December 2004

"S/" Dennis L. Peterson
5846 Spruce Creek Woods Dr.
Port Orange, Fl. 32127
1-386-760-5672

SEAL
STATE OF
WISCONSIN
NOTARY
PUBLIC

"S/" Edie La Moth
Date 1-10-05

AFFIDAVIT OF DENNIS L. PETERSON

DATED: October 24, 2003

I Dennis Peterson Place this in evidence as being my true recollections of the facts.

On March 21, 1997 prior to the closing at Kenosha Title. We went to Mr. Maan de Kok's office. Our Attorney Mr. Maan de Kok stated PDQ wants you to be the Developer, we said NO. He handed us a rough draft with scribbles all over it, and said you don't have to do it, this is toilet paper anyway, he stated it would be interesting reading on the toilet. Maan ke Kok informed us that $230,000 would be held from the sale to assure the Village that no one would walk away from the Development. At that time Mr. Maan de Kok asked us to give him Power of Attorney, we said NO. He informed us it was not important. We threw the Developers Agreement into the back seat of the car, where it remained until we arrived in Florida two weeks later. We ever read it. We arrived at Kenosha Title and we were asked to wait in the lobby. Maan arrived and went into the back room for a few minutes and then he went into the conference room with the PDQ Attorney's and Kenosha Title representatives. The Offer to Purchase refers to the Developers Agreement it was not at the Closing table . Papers were circulated for everyone to sign. I noticed one that of the papers said Escrow Agreement and I started to read. One of the PDQ Attorney's walked over to me and leaned over my shoulder, Scribbled June 15 on the second page and asked us to initial it. I started reading because I

wanted to know what I had initialed. "Not withstanding any ---to the contrary, the Roadway must be completed" "and I said "How are you going to complete the road by July 1 and he said "We are not", "We are just going to tear the building down on June 15" I said to Maria "they're going to tear the building down on my birthday" I started to read again from the beginning and Loretta said it is not necessary for you to read that, that just say's we are going to hold the $230,000 we are taking from the closing and placing it into your bank in your name. So I trusted my Attorney and continued to sign papers as they came by. As we were leaving Maan de Kok handed to us an Escrow Agreement with a receipt for $230,000 Closing Statement, Gap Agreement, Kenosha Title Insurance, Restrictive Covenant for Parcel A.

We were busy moving everything between the moving truck and Maan de Kok's self storage bin we had rented. When we arrived in Florida two weeks later I began looking at the papers. That is when I realized the Escrow Agreement was blank and I did not see the June 15 we had initialed. I called Loretta at Kenosha Title and she agreed to mail me a copy. This is the first time I realized there were two Escrow Agreements. When I read the one Loretta sent me I was dumb founded and felt very stupid. How could I have signed this. It took me a while to think things through to understand what had happened. I thought how clever the PDQ Attorney was to think up his answer so quickly "WE are not going to build the road by July 1" "We are just tearing the building down on June 15". The meeting they had in the

conference room prior to the closing must have been about our refusal to be the Developer and the Village refusal to have us as the Developer. This must be the Discussion Glesner refers to in the Agreement to Exchange Conveyances.

Mid June we received another Developers Agreement by mail, this one had our name on it. I called Maan De Ko and told him I would never sign that.

On July 7, 1997 my wife and I entered into a Developers Agreement with the Village of Pleasant Prairie Kenosha Wisconsin. Mr. Maan de Kok our presumed Attorney called us by cell phone and asked that we wait for him out-side the Village hall, in the parking lot. We had protested to signing, to which Mr. Mann de Kok threatened, if we did not sign now we would never sell another piece of property in Pleasant Prairie. (Parcel A). When he arrived he informed us that the Title for Parcel A was now back into our name and all the paperwork was in place for us to sign the Developers Agreement. We were there to sign for Parcel A. We were told PDQ would sign their half that evening. An addendum to the escrow road fund $61,000 was entered without our knowledge or consent and Mr. Pollocoff used it to confiscate the $230,000 Trust Fund. At some point in time, we are not sure when, an Agreement to Exchange Conveyances was entered. This Agreement speaks of instructions for the Village to confiscate the escrowed road fund, ($61,000) also instructions for Mr. Maan de Kok to personally sign and resign the title for the Peterson's whenever necessary, until PDQ and the Village

achieve their goal, and the road sewer and water and Development are complete. Maan de Kok NEVER had Power of Attorney. Included in the Agreement was the Quit Claim Deed to the property, one from PDQ to PDQ Dated June 7, 1997 to make us fee simple owners of the property in time to sign the Developers Agreement. The other Peterson's returning the property to PDQ Dated June 7, 1997 this Q/C is in question. Why would we on June 7 give the PDQ that which they already had. To this day the deed is still in error. Jean Werbie Wrote the Developers Agreement with full knowledge that we were not the owners.

In August we received a letter from the Bank, Wess Ricchio informed us our monthly sweep from the Trust Fund would be discontinued. This is when we first realized there is something wrong with the Developers Contract. Next came the letters of Breach from the Village. To the best of my recollection Mr. Pollocoff called me in Florida to inform me he was going to take the money and I told him I did not believe that any of the contracts was legal. He asked "Why did you sign it" I told him Mann de Kok threatened us if we did not sign it the PDQ and the town were ready to get the project rolling and the PDQ through the two escrow agreements has the right to take all the funds. I quote "Sign now and you can still salvage some of the funds" Next came the letter from Mr. Maan de Kok "the likelihood of your receiving any of your money is very slim".

December 3, 1997 I retained Mr. Robert Hankel to give his opinion of the Developers Agreement. We were informed it was all illegal.

We made an appointment to speak to Mr. Pollocoff and Mr. Maan de Kok at the Village hall. Together they came on very strong demanding more money, and threatening legal action. We listened attentively until they were finished and then informed them of Mr. Hankel's findings. After our threat to sue the Village and Mr. Maan de Kok, Mr. Pollocoff asked Mr. Maan de Kok "John can he do that" Mr. Mann de Kok replied "There is not one legal paper on the table" "The only legal document is the Original Offer to Purchase, and it is Ambiguous".

Mr. Hankel acquired a copy of Mr. Maan de Kok's file sometime in February 1998 and forwarded a copy to us May 28, 1998 because we culd not understand what he was talking about. This when we first saw the Agreement to Exchange Conveyances.

I made several calls to the Village to inquire about the problem on one occasion when I inquired of Jean Werbie "Where did the Agreement to Exchange Conveyances come from and was it on your table with the Developers Agreement" she hung-up on me. They would never speak to me again after that point.

Copies sent to :
Mr. Jungen
Village Clerk: Romanowski

Dated: October 24, 2003

Dennis L. Peterson
5846 Spruce Creek Woods Dr.
Port Orange, Fl. 32127

1-386-760-5672

RENEWED FOR TRIAL TO THE COURT
Dated: November 16, 2006

"S/" Maria L. Peterson
"S/" Dennis L. Peterson

SEAL
State of Wisconsin
Notary
Public

Date: 11-16-06 "S/" *Diana L. Klausch

THESE THREE AFFIDAVIT'S WERE FIRST SENT TO THE ATTORNEYS RESPONSIBILITY, IN 1998. THEY WERE FORMATED IN THE PROPER FORM FOR THE CIVIL COURT AND WITNESSED BY THE KENOSHA COURT HOUSE NOTARY IN 2003 . THEY ARE NOW BEING FORMATTED FOR THIS COURT. NOT ONE WORD HAS BEEN CHANGED.

AFFIDAVIT OF MARIA L. PETERSON

DATED: October 25, 2003

I Maria L. Peterson place this in evidence as being my true recollection of the facts.

I will swear on a stack of bibles if you wish. Everything my husband has stated is true in it's entirety, this is exactly as I remember it. I would like to add that on July 7, 1997 when we signed the Developers Agreement. We were in the Village office less than thirty minutes. As I look back at it, the reason for us to wait for Maan de Kok outside, was so that we would not talk to anyone prior to his arrival. Maan de Kok walked us inside. Dennis, Maria Maan de Kok and Werbie were the only ones in the room. It never occurred to us that Maan de Kok was there as the Village Attorney and we were there with no representation. A ten foot table was stacked high with papers held together with paper clips and staples. We were handed a copy from each pile. That was the Developers Agreement. Nothing was read by anyone. We were told to hurry up and sign because everything must go to Glesner NOW.

As to the closing on March 21, 1997 nowhere during the entire year of paperwork do I find a document which speaks to the fact that there were two Escrow Agreements.

The only thing Dennis forgot was that Maan de Kok told us "These are very important people they make $300. per hour, we can't delay them with foolish questions." This closing took only fifteen minutes.

Copies sent to:
Mr. Jungen
Village Clerk: Romanowski

Dated: October 24, 2003

Maria L. Peterson
5846 Spruce Creek Woods Dr.
Port Orange, Fl. 32127

1-386-760-5672

SEAL
State of Wisconsin
Public Notary
*Diana L. Klausch

Date: 11 - 16 - 06

STATE OF WISCONSIN
CIRCUIT COUT
KENOSHA COUNTY Case No. 04CV347

Maria L. Peterson
Plaintiff
V.
PDQ Food Stores, Inc. Case Code: 30301
Defendant

Supplemental Affidavit of Randy Manning

STATE OF WISCONSIN)
) ss
County of Dane)

Randy Manning, being duly sworn on oath, deposes and says:

1. I am Director of Real Estate for PDQ Food Stores, Inc. This affidavit supplements my previous affidavit in this matter, which is incorporated by reference.

2. I represented PDQ Food Stores, Inc. at a meeting on Monday, July 7, 1997 at the Village of Pleasant Prairie Municipal Building for the purpose of signing documents related to property that had been purchased by PDQ from Mr. and Mrs. Peterson.

3. I received a letter dated July 3, 1997 from Attorney Richard Glesner, attached hereto as Exhibit A, which contained detailed instruction for the conduct of that meeting. The signed original of the letter is in the files of PDQ Food Stores, Inc. Notation on the letter indicates that a

copy was sent to John Maan de Kok as attorney for Mr. and Mrs. Peterson.

4. The meeting occurred and proceeded as set forth in the July 3, letter. Mr. and Mrs. Peterson in my presence signed the documents designated for their signature, including the Exchange Agreement and a Quit claim deed from Mr. and Mrs. Peterson to PDQ Food Stores, Inc. I obtained copies of all documents as instructed in July 3 letter , and promptly conveyed them to Mr. Glesner.

5. I was involved in all aspects of the acquisition by PDQ Food Stores, Inc. of the subject real estate from Mr. and Mrs. Peterson, including the July 1997 exchange of quit claim deeds. The July 1997 transaction occurred as set forth in the Exchange Agreement and solely and exclusively for the purposes set forth in that agreement.

6. After acquiring the subject property from Mr. and Mrs. Peterson March 1997, PDQ Food Stores, inc. never considered re-conveying the property or any part of it to Mr. and Mrs. Peterson for any purpose, except the limited transaction set forth in the Exchange Agreement.

7. It has recently been called to my attention that some of the documents executed on July 7, 1997, including the Exchange Agreement and quit claim deed from Mr. and Mrs. Peterson to PDQ Food Stores, Inc., bear a date of June 7, 1997. The history of the transaction establishes that any such date is in error, and in fact the documents were signed on July 11, 1997.

Dated this 21st day of September, 2005.

"S/" Randy Manning

Subscribed and sworn to before me

This 21st day of September 2005.

"S/" Jody K. McBride

Notary Public, Dane County, Wisocnsin

My Commission 2-18-07

No Seal

STATE OF WISCONSIN
CIRCUIT COURT
KENOSHA COUNTY Case No. 04CV000347
BRANCH 5 Hon. Wilbur Warren III

Maria L. Peterson &
Dennis L.. Peterson
Plaintiff's
V.
PDQ Food Stores Inc.
Defendant

Affidavit of Evangeline Patino

I Evangeline Patino enter this into evidence as being my testimony. This being what I recall of the events. Maria L. Peterson is my older sister. In 1997 I was employed and still am, by the Racine County School system.

On the first week of June 1997 I drove from Racine, Wisconsin to Atlanta Georgia to visit with our sister and brother in law Harvey and Lupe Rowe. On the tenth of June the three of us drove down to Florida to help my sister and brother in law, Dennis and Maria move into their newly purchased home.

Around the 15th of June I recall something came in the mail and they were both very upset about it. I didn't understand about it at the time. Harvey, Lupe and I drove back to Atlanta on or about the 27th or June. We were to meet with my

other brother and sister in law in Atlanta for the fourth of July. They were coming from Texas.

July 1st Maria called to say they must go to Wisconsin, and would stop in Atlanta for the fourth of July. The seven of us spent the forth of July together, and watched the fireworks. On the fifth of July we drove into the Atlanta hills to a time share where we spent the day swimming and playing put-put golf. Dennis, Maria and I drove my car to Wisconsin on the Sixth of July. We arrived in Wisconsin very early in the morning around 2:00 a.m. on July 8, 1997. They spent the night at my apartment due to the hour. We did not want to wake our mother at that time.

Dated this 29th day of December 2005

"S/" Evangeline Patino

Notary: SEAL
STATE OF
WISCONSIN
PUBLIC
NOTARY

Date: 12-29-05

"S/" Patricia D. Brouwn
??

STATE OF WISOCNSIN
CIRCUIT COURT
KENOSHA COUNTY

Maria L. Peterson &
Dennis L. Peterson
Plaintiff's

Case No 04CV347

V.
PDQ Food Stores Inc.
Defendant Case Code: 30301

Affidavit of Amanda Truax

STATE OF WISCONSIN)
) ss
County of Kenosha)

Amanda Truax, (Affiant) being duly sworn on oath, deposes and says:

1. I am adult resident of Kenosha, Wisconsin. Before my marriage, my name was Amanda Johnson.
2. I am a properly credentialed Wisconsin notary public, and was so in 1997'
3. From 1996 to 2003, I was employed as a secretary by the law firm that included Attorney John Maan de Kok. In the course of my employment, I notarized documents in matters he was handling.
4. At various times, including some or all of 1997, Mr. Maan de Kok represented Dennis Peterson and Maria Peterson, and I became acquainted with them.

5. I have reviewed three 1997 documents which are attached hereto as exhibits. Exhibit A is a copy of a Quit Claim Deed from Mr. and Mrs. Peterson to PDQ Food Stores, Inc. Exhibit B is a copy of an Affidavit by Owner of Mr. and Mrs. Peterson. Exhibit C is a copy of a Certified Survey map.
6. Each exhibit includes signatures of Mr. and Mrs. Peterson and of me as notary, using my name at the time of Amanda Johnson.
7. I have carefully examined each such notarization and have determined to my full satisfaction that each accurately shows a signature which I executed. No issue has ever arisen of anyone falsifying my notarization.
8. I placed a date of "7th of July, 1997" in my own hand on the certified survey map, and I am fully satisfied that it is accurate. The other documents are not dated in my hand, and I did not prepare them in my duties as a secretary. I therefore cannot be certain of the date on which I notarized those documents. I note that June 7, 1997, the date stated on the quit claim deed, was a Saturday. Because I very rarely worked in that job on Saturdays, I consider it improbable that that date is accurate.

Dated this 17 (hand written) day of August, 2005.

"S/" Amanda M. Truax

Subscribed and sworn to before me this
17th "S/" day of August, 2005

"S/" Maria Zizzo

Notary Public, Kenosha County, Wisconsin
My commission _____7-16-06 _

Dorn Law Offices 2101 Fox Avenue
Madison, WI. 53611-1920
(608) 255-2409

Supreme Court, U.S.
FILED

09-975 JAN 21 2010

OFFICE OF THE CLERK

BOOK 3

No. _____

IN THE
SUPREME COURT
OF THE UNITED STATES

Maria L. Peterson -- *Petitioner*

VS.

PDQ Food Stores Inc. &
Lakeview Investments LLC.

Respondent

ON PETITION FOR WRIT OF
CERTIORARI T FROM THE U.S.
COURT OF APPEALS FOR THE
SEVENTH CIRCUIT , CHICAGO ILL.

PETITION FOR WRIT OF CERTIORARI

MARIA L. PETERSON
5846 SPRUCE CREEK WOODS DR.
PORT ORANGE, FL. 32127
1-386-760-5672 CELL 1-386-214-5370
ATTORNEY'S FOR *RESPONDENT*
THOMAS P. AIELLO
NICHOLAS INFUSINO
MICHAEL DUBIS

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EXHIBITS IN BOOK # 2

1. Crispel-Snyder Engineers & Archetects Oct. 29, 1996 to Ms. Werbie - provide us with documentation, specifications, requests. pages 5 to 6

2. Regional Planning Commission TO: Ray Bolton - Jewel - PDQ Surveyor June 4, 1997 - acknowledge letter May 28, 1997 - include this letter with your submittal of plans and specifications. pages 7 to 8

3. Dept. Natural Resources June 12, 1997 Conditional Approval pages 9to 10

4. Kenosha Water Utility TO: Ray Bolton Approved June 23, 1997 Pages 11 to 12

5. Letter Glesner to Snyder - Kenosha Title - March 5, 1997 - We are corporate counsel to PDQ - Condition president to closing page 13 to 14

6. FAX Glesner to Maan de Kok - May 29, 1997 Suggest following language Paragraph # 55 - PDQ signatory ONLY - Werbie notation NO PDQ is party pages 15 to 16

7. Glesner to Manning Instructions - Personally take all documents to Village hall - witness signatures - return directly to me.
pages 17 to 20

8. FAX Glesner to Archer - July 8, 1997 Manning delivered Tuesday morning signed documentation - now in safe file Village added as party - unclear as to where or how escrow was generated - I advise , execute (5) copies of the Escrow Agreement pages 21 to 24

9. FAX Glesner to Maan de Kok - July 8, 1997 concluded lengthy discussions with PDQ - at best PDQ controls $10,000 - Manning to deliver ADDENDUM Wednesday - Randy delivered new Escrow at noon Tuesday - proposing what we believe is reasonable solution. pages 25 to 27

10. MAJOR LEAGUE REALTY - Peterson's placed an offer to purchase on Apt. building August 25, 1997
pages 28 to 29

11. FAX Sept 12,1997 From: Al Brokmeir TO: Peggy Keuller / to Village / PDQ / Maan de Kok " crux of the problem revolves around the CSM
pages 30 to 31

12. Letter PHILLIPS, RICHARDS, MAYHEW - From Mann de Kok to Peterson's - Breach of Agreement - enrich escrow - "likelihood of your receiving any of your escrowed funds , fairly slim" pages 32 to 33

13. Quit Claim Deed # 1064467 Peterson's to PDQ June 7, 1997 pages 34 to 36

14, Richard Glesner List of files pages 37to 41

15. Doc. # 1063441 Certified Survey Map Recorded with Register of Deeds July 10, 1997 Owners - Peterson's pages 42 to 52

17. QUIT CLAIM DEED - - Doc. # 1063440 PDQ Foods Stores Inc. to Peterson's Recorded July 10, 1997 and again October 17, 1997 as Doc. # 1073758 Soley to Correct legal description. Giving Peterson's Parker parcel pages 53 to 58

17 Wisconsin Real Estate Transfer Return pages 59 to 60

19. IMPOSSIBLE QUIT CLAIM DEED - - Doc. # 173759 Recorded October 17, 1997 Peterson's to PDQ Foods Dated June 7, 1997 pages 59 to 63

20. REGISTER OF DEEDS - compilation of research on documentation
pages 65 to 68

AGREEMENT TO EXCHANGE CONVEYANCES

Under separate cover Pages 70 to 129

CRISPELL-SNYDER, INC.
ENGINEERS & ARCHETECTS

October 29, 1996

Village of Pleasant Prairie
9915-39th Avenue
P.O. Box 905
Pleasant Prairie, Wisconsin 53158

Attn: Ms. Jean M. Werbie
Director of Community Development

Re: 74th Street Construction
Project 96007

Dear Jean:

We have reviewed the Preliminary plans and specifications for the referenced project and off the following

SANITARY SEWER

WATER MAIN

(7) Wisconsin Department of Natural Resources submittal forms should be provided.

STORM SEWER

ROADWAY

(7) The Village's three year road construction schedule should be described in the specifications unless a variance is being requested.

DETENTION STORAGE / GRADING / EROSION CONTROL

(1) It is our understanding that PDQ is acquiring the property and wants all storage to be provided north of 74th Street. The plans should be revised accordingly.

(4) The Wisconsin Department of Natural Resources Notice of intent should be filed if the site grading exceeds 5 acres.

MISCELLANEOUS

(3) A contract document including proposal form, contract form and general conditions should be provided in addition to the specifications.

Please call if you have any questions.

Sincerely,

CRISPELLL SNYDER, INC.

"s/" Daniel F. Snyder, P.E.
Vice President

DFS/clr

FAX NOTATION
RECEIVED DATE: 10/31096 13:11
FROM : 414 694 4734

SOUTHEASTERN WISCONSIN
REGIONAL PLANNING COMMISSION

VILLAGE
RECEIVED
JUN 4, 1997

STATE
SEAL

June 2, 1997

Mr. Ray Bolton
Jewel & Associates, Inc.
146 W. Jefferson St.
P.O. Box 718
Spring Green, WI 53588

Re: SEWRPC No PSC-97-077

Dear Mr. Bolton:

This is to acknowledge receipt of your letter of May 28, 1997 requesting that the Commission review and comment on a proposed private main sanitary sewer and two building sewers that would connect to a public sanitary sewer in an easement located west of, and adjacent to the project site in the Village of Pleasant Prairie, Kenosha County. The private main and building sewers would serve two proposed commercial buildings located immediately northwest of the intersection of CTH 88 and STH 50, Such review comments are required by Section 11HR 82.20(4) of the Wisconsin Administrative Code.

Please be advised that the Commission staff has reviewed this matter and has determined that the proposed private main and building sewers are in conformance with and would serve to

implement the regional plans prepared and adopted by the Commission as the area wide water quality management planning agency. Please include a copy of this letter with your submittal of plans and specifications for these sewers to the Wisconsin Department of Commerce.

Should you have any questions concerning this matter, please do not hesitate to contact us.

Sincerely,

"S/" Philip C. Evenson

Philip C Evenson
Executive Director

PCE/DAS/cap
BOLTON,LTR

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCED

SEAL
WISCONSIN
DEPT. OF NATURAL
RESOURSES

RECEIVED
VILLAGE
Jun 16, 1997

June 12, 1997

JANE ROMANOWSKI CLERK
VILLAGE OF PLEASANT PRAIRIE
9915 39TH AVENUE
P.O. BOX 89
PLEASANT PRAIRIE WI 53158

Dear Ms. Romanowski:

The division of Water is conditionally approving plans and specifications for a water main extension at Pleasant Prairie, Wisconsin, submitted under the seal of Frederick G. Gruber, Professional Engineer, Jewel & Associates, Spring Green, Wisconsin, and received for Approval on June 5, 1997.

The water main extension will be installed on 74th Street.

The plans and specifications and other reports on file with the Department were used by the Department as the basis for conditional approval

The plans and specifications are hereby approved in accordance with s. 281.41 Statutes, [formerly s 144.04 Statutes], as attended by affixing on the

plans and specifications, the stamp of approval Number 97-0841, subject to the following conditions:

1. That the pre-construction conference be held to familiarize the construction contractor(s) and resident inspector(s) with the erosion control and dewatering requirements and all other provisions and conditions of the approved plans and specifications.

2. That a competent resident inspector be provided during the course of construction.

3. That erosion control mutation to lands and waterways adjoining the construction area. The methods shall include but not be limited to the following:

   a. Siltation fences,
   b. Trench stabilization, and
   c. Immediate mulching and seeding.

4. That a minimum horizontal distance of 8 feet be maintained between existing or proposed water mains and existing or proposed sewers.

5. That a minimum horizontal distance of 8 feet be maintained between fire hydrants and sanitary sewers or storm sewer inlets.

KENOSHA WATER
UTILITY
SEAL

"Providing and Protecting Kenosha's Greatest Natural Resource"

June 23, 1997

Ray Bolton, Architect
Jewel & Associates Inc.
146 W. Jefferson St.
Spring Green, WI 53588

Dear Mr. Bolton:

SUBJECT:
Water Main – Plan Review – Approval
74th Street from CTH H (88th Avenue) west approximately 650 feet. – Village of Pleasant Prairie

The plans you have submitted for an *" water main have been reviewed and are approved. Plan reviewed is 74th Street construction with revision date of 3-14-97.

This review and approval is in accordance with the Cooperative Agreement between the city of Kenosha, the Kenosha Water Utility and the Village of Pleasant Prairie.

Sincerely,

"S/" Floyd Bethke

Floyd Bethke, P.E.,
Asst. Director Engineering Services

C: O Fred Nelson, General Manager
Jean Werbie, Community Dev. Director
Larry Ratayczak, Utility Engineer

rm/27

FAX3/14/97 13:46 414 654 1492 Kenosha Title

MICHAEL BEST
& FRIEDRICH
ATTORNEYS AT LAW

Writer's Direct Line:
608-283-4420

March 5, 1997

VIA FACSIMILE
414-654-1492

Mr. Steven R. Schneider
Kenosha Title Company
520 58th Street, Suite 1
Kenosha, WI 53140

RE: PDQ Food Stores, Inc,/ Escrow Agreement / Dennis and Maria Peterson

Dear Sir:

We are corporate counsel for PDQ Food Stores, inc. PDQ has contracted to purchase property from Dennis and Maria Peterson located at the northwest corner of Highway 50 and 88th Avenue in the Village of Pleasant Prairie, Kenosha County, Wisconsin. The closing is tentatively scheduled for March 18, 1997. It is a condition precedent to payment of the Petersons that an extension of 74th Street be constructed by the Petersons at their expense not later than June 15, 1997. To endure completion of the roadway by the Petersons, we have drafted an Escrow

Agreement, a draft of which is enclosed for your review and approval.

Please contact me as soon as possible if there are any required modifications. I used a similar agreement with first American Title Company in Madison in conjunction with the acquisition of another property by PDQ. First American Title approved the document as to form and content.

We have also provided a draft of this document to Attorney John Maan de Kok who is representing the Petersons. Because time is of the essence, we would appreciate an early response from you.

Very truly yours,

MICHAEL BEST & FRIEDRICH

"S/" Richard C. Glesner

RCG:sam
Enclosure
Cc: Jerry Archer
Randy Manning
John Maan de Kok
Paul Dombrowski

"S/"
OK per
Steven Schnieder
C Kenosha Title
3/14/97

e:\xf\client\73130\0021\aam0595|w52/3/5/97

MICHAEL BEST
& FRIEDRICH
Attorneys at Law

Writers Direct Dial:
608/ 283-4420

May 29, 1997

By Facsimile (414) 658-9346

John Maan de Kok, Esq.
Phillips, Richards, Mayew & Corrigal, S.C.
P.O. Box 677
Kenosha, WI. 53414-0677

Re: Rockin' Robin's Mill

Dear John:

I suggest that the following language be incorporated in the execution draft of the Development Agreement regarding the extension of 74th Street across the former Rockin' Robin's Property:

> PDQ Food Stores, Inc. signs this Development Agreement as a required signatory only. It is agreed by the Village and by Petersons, that PDQ Food Stores, Inc. by executing this Agreement, will not become the "Developer" and will not undertake or assume any monetary or non-monetary obligations or liabilities of the Developer.

Hand written notations by Ms. Werbie

NO: PDQ is a party to the agreement.

Modify the language or reference a separate agreement.

{ The Village won't assume any } ????

"S/" 6-97
Jean Werbie

Fax notations

Received Date: 5/28/97 11:12 From 608-283-2275

Received Date: 06/23/97 14:14 From 414-694-4737

MICHAEL BEST
& FRIEDRICH
Attorneys at Law

Writers Direct Line:
608-283-4420

July 3, 1997

Mr. Randy Manning
Director of Real Estate
PDQ Food Stores, Inc.
8383 Greenway Boulevard, # 600
Middleton, WI 53562

By Messenger Delivery

RE: LETTER OF TRANSMITTAL AND INSTRUCTIONS

Dear Randy:

I am enclosing, in connection with the proposed Exchange of Conveyances between PDQ and the Peterson, the following documents, all of which require executions as indicated in this letter:

- Agreement to Exchange Conveyances (2 bound execution counterparts with accompanying exhibits) ;

- Quit Claim Deed from PDQ to Petersons (original document) ;

- Real Estate Transfer Return associated with the PDQ conveyance to Petersons (original document) ;

- Quit Claim Deed from Petersons to PDQ (original document) ;

- Real Estate Transfer Return associated with the Peterson conveyance to PDQ (original document) ;

- Affidavit By Owner.

Please ensure that the following documents are executed in the prescribed manner:

(1) Jerry is to sign each of the two Agreements to Exchange Conveyances:

(2) Jerry is to sign the Quit Claim Deed from PDQ to the Petersons (I have authenticated Jerry's signature) ;

(3) Jerry is to sign each of the two Real Estate Transfer Returns:

- The Transfer Return associated with the conveyance by PDQ to Petersons should be signed by Jerry at the bottom of the document in the "Grantor" section;

- Jerry is to sign the Real Estate Transfer Return associated with the conveyance by Petersons to PDQ at the foot of the document in the "Grantee" section.

(4) You are to deliver each of the partially executed Agreement to Exchange Conveyances to John Maan de Kok's

personally. The Petersons must each sign both counter parts of the Agreement and return one fully executed Agreement to you;

(5) You are to deliver the executed conveyance from PDQ to the Petersons together with the partially executed Transfer Return to Attorney Maan de Kok;

(6) You are to receive in exchange for PDQ conveyance, a Quit Claim Deed from the Petersons to PDQ executed by each of the Petersons and notarized by John Maan de Kok or another notary;

(7) You are to deliver the signed conveyance by Petersons to PDQ to me as soon as practicable after the *Monday evening meeting*. I am to hold the executed conveyance and fully executed Real Estate Transfer Return until I am informed by John Maan de Kok that the closing has occurred with respect to the Development Agreement and Memorandum of the Development Agreement has been recorded. Upon such notification, I will cause the conveyance by the Petersons to PDQ to be recorded with the Office of the Register of Deeds for Kenosha County.

(8) Finally, you are to deliver the Owner's Affidavit as to No Adverse Matters & Possession to the Petersons for their respective signatures. After the document has been signed and notarized, you are to receive the original document and deliver it to me together with the Deed and real Estate

Transfer Return referenced in the preceding paragraph 7.

If you have any questions regarding any of the documentation which accompanies this letter, or the procedure to be followed to conclude the Exchange of Conveyances, please call me as soon as possible. In order to coordinate the logistics of the exchange procedure outlined in this letter, I am providing Federal Express delivery of this letter and bound copy of the Agreement with accompanying exhibits to John Mann de Kok.

Very truly yours,

MICHAEL, BEST & FRIEDRICH

"S/" Richard C. Glesner

RCG:all

Cc: David Savich (w/ bound copy of Agreement/ not original documents) John Maan de Kok (w/ bound copy of Agreement/ not original documents).

Enclosures

E:\xf\client\73130\oo21\all0444.w52|7/3/97

MICHAEL BEST
& FRIEDRICH
Attorneys at Law

July 8, 1997

Via Facsimile 836-1524

Mr. Jerry Archer
PDQ Food Stores, Inc.
8383 Greenway Boulevard
#600
Middleton, WI 53562

RE: Rockin' Robins Property
Escrow Agreement

Dear Jerry:

Randy Manning stopped at our offices Tuesday morning with the documentation that had been executed by the Petersons in association with the ***Exchange of Conveyances*** which occurred Monday evening in Kenosha. We are retaining all of the executed documents in a safe file until I am notified by John Maan de Kok that the Petersons have closed with the Village on the Development Agreement. John has indicated to me that the closing is scheduled for Wednesday afternoon with a pre-construction meeting to be held Thursday morning, July 10, 1997. As soon as I am notified by John that the closing has occurred and the Memorandum of Development Agreement has been executed and recorded, I will deliver the Deed from Petersons to PDQ to Kenosha Title with instructions to them to record the

conveyance and to issue the GAP Endorsement we requested Monday afternoon.

Randy also delivered to me a copy of the Escrow Agreement which had been drafted by John Maan de Kok which was virtually a copy of the Escrow Agreement we drafted which was signed by the Petersons and Kenosha Title at the Rockin' Robins closing March 21, 1997. The only significant difference in the Agreement is that the Village of Pleasant Prairie has been added as an additional party and as an additional signatory and the amount of the escrow has been decreased to $220,000.

Although the Escrow Agreement is unclear as to where or how the escrow funds were generated it is clear from conversations I have had with John that the Petersons are utilizing the same funds to fund the escrow with the Village that were escrowed at the time of PDQ"S closing with the Petersons. That escrow you will recall provided for $230,000 to ensure timely completion of the roadway by the Petersons in accordance with the Development Agreement.

I have since received a fax transmission from John Maan de Kok in which he has reaffirmed that the closing on the Development Agreement will occur Wednesday afternoon and that a pre-construction meeting will occur Thursday morning. Additionally, John has requested that PDQ sign five (5) copies of the Escrow Agreement, and Fed Ex the copies to him this afternoon to ensure that they will be received in time for the closing. In order to finally conclude

this transaction, I advise that you sign the Escrow Agreement the original of which is in Randy's possession and mail five (5) duplicate originals of the partially executed Agreement directly to John Maan de Kok with a copy to me.

I have the following observations with respect to the Escrow Agreement;

- The document does not state that it is intended to supersede or to modify in any respect the PDQ Escrow Agreement, nor does the document authorize Kenosha Title to release the funds previously escrowed for PDQ to the Village of Pleasant Prairie. I would be surprised if the title company would be willing to execute the proposed Agreement in its present form without a specific release from PDQ of the funds escrowed with Kenosha Title pursuant to the PDQ Escrow Agreement escrowed with Kenosha Title Pursuant to the PDQ Escrow Agreement.

- Aat page 4 of the Agreement to Exchange Conveyances, which was executed by PDQ and the Petersons, we specifically provided at paragraph 3 that Petersons acknowledge that the exchange which occurred Monday evening was not intended to and *in no manner relieved the Petersons of:*

  (A) The terms and provisions of the Escrow Agreement entered into by and between

the Petersons, PDQ and
Kenosha Title Services, Inc.
effective March 5, 1997

In order to timely conclude the closing on the Development Agreement, I advise you to execute five (5) copies of the Escrow Agreement and mail the partially executed documents directly to John Maan de Kok to enable him to deliver the documents to the Village at the scheduled closing.

Very truly yours,

MICHAEL BEST & FRIEDRICH

"S/" Richard C. Glesner

RCG: all

E:\xf\client\73130\0021\all0462.w52|7/8/97

MICHEL BEST
& FRIEDRICH
Attorneys at Law

July 8, 1997

VIA FACSIMILE: (414) 658-9346

John Maan de Kok
Phillips, Richards, Mayew
& Corrigal, S.C.
1025 - 56th Street
Kenosha, WI. 53140

Dear John:

I concluded a lengthy discussion with representatives of PDQ Tuesday evening regarding the Escrow Agreement you proposed and there is strenuous objection to the structure and terms of your proposed agreement for the following reasons.

1. The Agreement takes $220,000 from the Escrow between PDQ and Petersons which essentially eliminates any control over the escrowed funds by PDQ . In addition, at best it leaves PDQ with control of only $10,000 under the terms of the initial Escrow Agreement dated March 21. The Petersons agreed in the Agreement to Exchange Conveyances that the exchange procedure suggested to by you and agreed to by your clients would not effect PDQ's rights under the March 21 Escrow Agreement. Your proposed agreement materially alters PDQ's

rights and PDQs control in contravention of the Agreement to Exchange Conveyances.

2. Interest on the Escrowed funds is to be paid monthly to your clients which appears to provide a material disincentive to your clients to timely perform.

3. Your proposed agreement at paragraph 4 requires that the Petersons complete the Roadway in accordance with engineering plans attached to the Development Agreement and does not specifically require timely completion of the Roadway pursuant to the Development Agreement as did the original Escrow Agreement of March 21, 1997.

4. PDQ will permit your clients to utilize the escrowed funds as collateral for the Development Agreement but only in accordance with the Escrow Agreement of March 21 as modified in substantially the manner provided in the Addendum we have drafted which accompanies this facsimile transmission.

Randy Manning is prepared to deliver Escrow Agreements which incorporate the Addendum signed by PDQ to you Wednesday for the Closing with the Village but only if the Agreement modified as proposed by the Addendum is acceptable.

This problem arose because we were not provided with an opportunity to review what you were proposing as a solution to the escrow arrangement until literally the eleventh hour

when you faxed a partial copy to me with 3 pages missing thereby preventing me from effectively reviewing the Agreement until Randy delivered a copy of the entire Agreement to me at about noon Tuesday, We realize that this is a time sensitive matter and are therefore proposing what we believe represents a reasonable solution.

I will be in the office at 7:00 a.m. tomorrow to await your call. I plan on discussing the ultimate solution with PDQ representatives as soon as possible tomorrow morning to accommodate your closing with the Village.

Very truly yours,

MICHAEL BEST & FRIEDRICH

"S/" Richard C. Glesner

RCG/tmd

Cc: PDQ Food Stores, Inc. (via facsimile)
Att: Dave Savich, President
Jerry Archer, Executive Vice President
Randy Manning, Director of Properties

E:\xf\client\73130\0021\tmd0498.w52|7/8/97

Fax Received Date: 7/7/97 10:06

THIS FORM HAS BEEN APPROVED BY THE ASSOCIATION OF FLORIDA REALTORS

Contract for Sale and Purchase

Parties: Ralph E. & Nora J. Kraler
101 Barkley Ct. Debary Fl.

And : Dennis & Maria Peterson
5846 Spruce Creek Woods Dr.
Port Orange, Fl. 32127

Lots 1 - 5 Inc, Politz Seb Mewdall Homestead Mb 15 Pg 65 & Lots 10-17 Inc. Blk 1 Ross & Newell Sub MB 8 Pg 53 Per or 4047 Pgs 2512-2513

Street Address :
111 W. Turgot Ave Edgewater, Fl
16 Units, 26 Ref,. 26 Ranges 26)
Central Heat & A/C Units All Electrical Fixtures

Parcel Id # 1734 33 08 00 0010

Price $ 565,000

C/B MAJOR LEAGUE REALTY, INC.

(c) /subject to assumption of existing mortgage
First Federal $ 472,000.00

Balance to close in U.S. Cash $ 83,000.00

Deposit Amount $10,000.00

Interest 9 %

Closing Date September 30, 1997

Property use: Rental

Buyer: "S/" Dennis L. Peterson 8/25/97
Social Security # 389- 8297
Buyer: "S/" Maria L. Peterson

AGENCY DISCLOSURE

Seller and is hereby informed
C/B Major League Realty, Inc.

Steven J. Salerno Broker/V.P.
Licensee S Jim Shouk

CONSENT TO DUAL AGENCY

Date 8/25/97

"S/" Dennis L. Peterson
"S/" Maria L. Peterson

Printed by Peggy Keuler 9/12/97 3:24

CONFIRMED
From: Al Brokmeier
Peggy Keuler
Subject : CSM 1981

Note ====== 9/12/97 ==========
CC: Brett Engleking

Peggy:

There appears to be a problem with documents between Dennis Peterson and PDQ relating to lands located on the NW corner of STH 50 & H. From what I understand PDQ originally purchased a parcel of land 118' x 165' this parcel 91-4-122-054-0242. They also acquired parcel 054-0140 and 054-0230.

The problem arose about who was going to be responsible for what payments the development of the lands, so PDQ quit claims parcels -0240 and –0230 back to Peterson so Peterson can fulfill a developers agreement. This Quit Claim deed DOES NOT include parcel –0242. (Parker)

CSM 1981 is recorded creating a 3 lot CSM, however a portion of lot 1 of this CSM is owned by PDQ. This creates a problem. Lands divided by CSM need common ownership, the Quit claim Deed from PDQ to Peterson did not include Parcel -0242 which was included in the CSM.

After CSM 1981 a Quit Claim Deed is recorded transferring -0240 and –0230 back into the name of PDQ.

The "crux" of the problem revolves around the CSM. Either the CSM should not have included parcel -0240 when it was originally recorded, or the Quit Claim Deed from PDQ to Peterson prior to the recording of CSM 1981 should have included parcel -0242 . Either way it looks like there is a question of the legality of CSM 1981.

We're hoping that you might be able to review this area and advise us on the information or circumstances surrounding the adoption of CSM. We are unable to process new tax identification numbers until this issue is resolved.

Contact us if you need any additional information or explaination.

Thanks for your time . . . . . Al

(Hand Written)

Called John
9/15/97

PHILLIPS, RICHARDS, MAYEW
& CORRIGAL, S. C.

November 19, 1997

Dennis & Maria Peterson
5846 Spruce Creek Woods Drive
Port Orange, Fl. 32127

RE: 74th Street Construction

Dear Dennis & Maria

Enclosed please find a copy of a letter from the Village of Pleasant Prairie dated November 17, 1997 regarding Notice of Breach of Agreement. As discussed with you previously, the Village requires an enrichment of the cash escrow account. Failure to enrich may result in several courses of action being taken by the Village including the filing of a lawsuit for contribution and/or immediate draw-down of the escrow account. I believe immediate draw-down is more likely result.

I have learned, from conversations with Michael Pollocoff, PDQ has tentatively agreed to put up the required Letter of Credit to allow completion of the completion of the road project. The ultimate result is still unclear. I believe that based upon the added road costs, for the undercutting particularly, the likelihood of your receiving any of the road escrow funds is fairly slim.

On a related matter, I am also enclosing a copy of the most recent Crispell-Snyder Engineering invoice. This will also be paid from the road escrow.

Please contact me with your questions or concerns.

Very truly yours,

"S/" John Maan De Kok

JM:dp
Encls.

QUIT CLAIM DEED

Document Number
1064467
Quit Claim Deed
Recorded
At Kenosha County,
Kenosha WI. 53140
Louise I. Principe,
Register of Deeds
On 7/21/1997 at 2:37 pm
SANF REEDEED2

Return to
Richard C. Glesner, Esq.
Michael Best & Friedrich
Suite 700
One South Pinckney Street
P.O. Box 1806
Madison, WI 53701-1806

91-4-122-054-0230
91-4-122-054-0240

This Deed Made between DENNIS L. PETERSON and MARIA L. PETERSON, husband and wife, GRANTOR and PDQ FOOD STORES, INC. GRANTEE :

Grantors, for valuable consideration the receipt and sufficiency of which is hereby acknowledged convey to Grantee the following described real estate in Kenosha County, State of Wisconsin:

SEE LEGAL DESCRIPTION ATTACHED HERETO

FEE
3
EXEMPT

Together with all and singular the hereditiments and appurtenances thereunto belonging:
And DENNIS L. PETERSON and MARIA L. PETERSON warrant that the title is good indefeasible in for simple and free and clear of encumbrances except municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants specifically accepting and preserving for the benefit of the PDQ Food Stores, Inc. a Restrictive Covenant Recorded April 18, 1997 as document No. 1052133 with the Kenosha County Register of Deeds, and general taxes levied in year of closing and will warrant and defend the same.

This document is entered into to reform a previously recorded conveyance between the parties to this conveyance.

Dated this 7th day of June, 1997

"S/" Dennis L. Peterson

"S/" Maria L. Peterson

ACKNOWLEDGEMENT
State of Wisconsin)
) SS
Kenosha, County)

Personally came before me this 7th of June, 1997, the above named Dennis L. Peterson and Maria L. Peterson to me known to be the person who executed the foregoing instrument and acknowledge the same.

"S/" Amanda M. Johnson

Notary Public Kenosha, County, Wis. My commission is permanent. If not, state Expiration date: 11-06-00

THIS INSTRUMENT WAS DRAFTED BY

John Maan de Kok

Attorney at Law

WARRANTY DEED

STATE BAR OF WISCONSIN
FORM No. 2 1982

E:\ xf\client\73130\0000\all319.w52/7/3/97

RICHARD GLESNER

Refers to the numbers in my file

FAX : **February 28, 1997** #76
e:/xf/client/73130/aam0583.w52/2/28/07
Speaking of $250,000 to be placed in escrow. Developers Agreement Not available. Peterson's to pay all outstanding deferred charges.

LIST OF CLOSING DOCUMENTS
e:/xf/client/73130/lxp3910.w52/2/28/97

MARCH 5, 1997 - We are the corporate lawyers. #77
e:/xf/client/73130/0021/aam/0595/w52/3/5/97

GENTLEMEN: Exhibit A location of roadway #89
e:/xf/client/73130/0021/a110C11.w52/3/19/97

MARCH 21, 1997 #216 **Restrictive Covenant**
e:/xf/client/73130/0021/a110004.w52/3/21/97

Escrow Agreement: # 91 signed March 21, 1997 refers to itself as an Exchange Agreement for 1031 Tax purposes.

Escrow Agreement: #92 Dated March 5, 1997
Peterson's must now agree to Pay for road.
e:/xf/client/73130/0021/tmd0216.w52/3/21/97
Peterson's received three weeks later.

March 24, 1997 : Glesner has striken PDQ
as party to agreement, substituted
Peterson's name.

e:/xf/client/73130/tmd0216.w52/3/21/97

Quit Claim Deed – Peterson's to PDQ
signed May 1997
###
e:/xfclient 73130/0000all0319.w52/7/3/97
Signature Amanda Johnson
e:/xf/client/73130/0000/all0319.w52/7/3/97
Legal description ###
e:/xf/client/73130/0021/blm4434.w52/7/2/97

May 14, 1997 # 108 Post Closing Discipline –
Glesner requests construction
Schedule in one week.
e:/xf/client/73130/0021/aam0762.w52/5/14/97

May 29, 1997 #118 I suggest the following
language be incorporated
PDQ signatory only.
e:/xf/client /73130/0021/kzr2230.w52/5/20/97

MAY 29, 1997 Glesner to Mann de Kok -
Please signatory only
e:/xf/client/73130/0021/kzr2236.w52/5/29/97

JUNE 19, 1997 Glesner to Mann de Kok
Madrigrano judgment docketed
April, 6, 1993 Threaten to forclose.
e:/xf/client/73130/0021/all0382.w52/6/19/97

JUNE 19, 1997 Glesner to Madrigrano, Jr.
Letter report from Landmark Title

Gap Affidavit and Indemnity Agreement
Commitment clears from
August 25,1996 8:00 a.m. until
May 27, 1997 8:00 a.m.
e:/xf/client/73130/0021/all0383.w52/6/19/97

JUNE 19, 1997 Glesner to Kenosha Title
We have commitment dated
August 15, 1996 - adverse claims
e:/xf/client/73130/0021/all0384.w52/6/19/97

JUNE 24, 1997 #143 PDQ as signatory only
e:/xf/client73130/0038/all0397.w52/6/24/97

July 2, 1997 #215 July 7, 1997 Quit Claim Deed PDQ to Peterson
e:/xf/client/73130/002/all0437.w52/7/3/97

JULY 2, 1997 # 146 Proposed
Agreement to Exchange
e:/xf/client/73130/0021/all0438.w52/7/2/97

JULY 3, 1997 #147 Disregard
July 2, Agreement to Exchange
e:/xf/client/73130/0021/all0438.w52/7/3/97

JULY 3, 1997 #148 Latest modifications of
Exchange Agreement 11:00 am
E:/xf/client/73130/0021/all0438.w52/7/3/97

JULY 3, 1997 Agreement to Exchange
Signature Page
e:/xf/client/73130/0021/all0438.w52/7/3/97

JULY 3, 1997 Glesner to Manning

Instructions
e:/xf/client/73130/0021/all0444.w52/7/3/97

JULY 7, 1997 Conveyance Exchange
Checklist #158
e:/xf/client/73130/0021/all0445.w52/7/7/97

JULY 7, 1997 Glesner to Kenosha Title
e:/xf/client/73130/0021/all0453.w52/7/7/97

July 8, 1997 FAX - Glesner to PDQ
Addendum Signature Page
e:/xf/client/73130/0021/all0467.w52/7/8/97
Page 3 of Addendum signature page only
e:/xf/client/73130/0021/all0467w.52/79/97

JULY 8, 1997 #155 Escrow Agreement takes
$220,000.00 away from PDQ
Leaving only $10,000.00 in PDQ's
control. Ultimate Solution
e:/xf/client/73130/0021/tmd0498.w52/7/8/97
Last page Kenosha Title Services, inc.
This belongs in March
e:/xf/client/73130/0021/tmd0216.w52/7/8/97

JULY 9, 1997 #167 Rough draft Addendum
e:/xf/client/73130/0021/all0467.w52/7/99/97

SEPTEMBER 24, 1997 Quit Claim Deed of
September 24, 1997 requires Mann
De Kok's signature as agent for Peterson's
e:/xf/client 73130/0021/all0766.w52/9.24.97
No Power of Attorney – No longer
Peterson's Attorney

Quit Claim Deed #1064467 Peterson to PDQ.

Recorded July 21, 1997 to
correct September 24, 1997
previously recorded on July 21, 1997
as Document # 1064467
e:/xf/client/73130/0000/all0319.w52/7/3/97
Legal Discription ###
e:/xf/client/73130/0021/blm4434.w52/9/24/97

RECORDING CONFIRMATION SHEET

Date: July 10, 1997 DOCUMENT NUMBER

1063441

CERTIFIED SURVEY MAP
RECORDED
AT KENOSHA COUNTY
Louise I Principe,
Register of Deeds
On 7/10/97 9:23 PM
970027184 20.00
SANF REGDEED2 20

COMPANY NAME:

DENNIS & MARIA PETERSON
CERTIFIED SURVEY MAP # 1981

1063441 (hand written)

JEWELL & ASSOCIATES INC.
ENGINEERS-SURVEYORS-ARCHITECTS
146W. Jefferson St. - SPRING GREEN, WI.
53588

20-- (HAND WRITTEN)

KENOSHA COUNTY CERTIFIED
SURVEY MAP # 1981

A PARCEL LOCATED IN THE SE 1/4 , SECTION 5, T. 1 N., R. 22 E.
VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN.

DATE: MAY 23 1997

SURVEYED FOR:
DENNIS L. & MARIA L. PETERSON
8800 75th Street
Kenosha, WI. 53142

SURVEY BY:
GREG A. JEWELL PE. RLS
JEWEL & ASSOCIATES, INC.
146 W. JEFFERSON ST.
SPRING GREEN, WI. 53588

OWNERS:
DENNIS L. & MARIA L. PETERSON

SEAL
WISCONSIN
LAND SURVEY
"s/" GREG A. JEWELL
S-1898
SPRING GREEN WI.

CERTIFIED SURVEY MAP

Actual size NOT Shown

JEWELL & ASSOC., INC. & #106-3441
ENGINEERS-SURVEYORS-ARCHITECTS
148 W. JEFFERSON ST. -- SPRING GREEN, WI 53588

OSHA COUNTY CERTIFIED SURVEY MAP # 1981

A PARCEL LOCATED IN THE SE 1/4 OF THE SE 1/4, SECTION 5, T. 1 N., R. 22 E., OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN.

MAY 23, 1997

SURVEYED FOR: DENNIS L. & MARIA L. PETERSON
8800 75TH ST.
KENOSHA, WI 53142

BY: GREG A. JEWELL, PE, RLS
JEWELL & ASSOCIATES, INC.
148 W. JEFFERSON ST.
SPRING GREEN, WI 53588

OWNERS: DENNIS L. & MARIA L. PETERSON
8800 75TH ST.
KENOSHA, WI 53142

SCALE: 1"=100'
0 50 100

NORTH

BEARINGS REFERENCED TO THE SOUTH LINE OF THE SE 1/4 OF SECTION 5, T. 1 N., R. 22 E., RECORDED AND ASSUMED AS S 89°49'36" W.

WISCONSIN
GREG A. JEWELL
S-1998
SPRING GREEN, WI
LAND SURVEYOR

ABBREVIATIONS
GARAGE
SHED
HOUSE
SANITARY SEWER

EAST LINE OF THE SE 1/4 SEC. 5-1-22

SE COR. SEC. 5-1-22 FD. MON.
N= 213,628.
E= 2,536,900

(PRIV. AVE.)

S87°43'43"W 13.69'

S89°49'36"W 330.00'

S02°16'17"E 77.10'

N02°16'17"W 210.84'

S89°43'43"W 82.05'

S02°16'17"E 166.85'

VISION TRIANGLE

VISION TRIANGLE (TYP.)

LOT 1
81,857 S.F.

EASEMENT DEDICATED TO THE VILLAGE FOR DETENTION BASIN, DRAINAGE, AND MAINTENANCE PURPOSES (15,753 S.F.)

DRAINAGE WAY

DEDICATED TO THE PUBLIC FOR RIGHT-OF-WAY 42,363 S.F.

LOT 3
82,723 S.F.

SE1/4 - SE1/4

UTILITY EASEMENT

HOUSE

GARAGE

S89°49'02"W 4.37'

213.73'

S02°11'35"E 248.73'

N02°17'09"W 239.85'
(N02°16'11"W 239.00')

74th STREET
66.00'
66.04'

SANITARY SEWER EASEMENT

LOT 2
81,008 S.F.

213.78'

P.O.B.

PARCEL B

PARCEL D

LEGEND
1 1 1/2" I.P.

BEST AVAILABLE COPY

NOTE : ALL BUILDINGS ON PARCEL "A" TO BE RAZED BY OWNER OR OTHERS

CERTIFIED SURVEY MAP

A part of the SE ¼ of the SE ¼ Section 5, T 1 N. R 22 E., Village of Pleasant Prairie, Kenosha County, Wisocnsin.

Date: May 23, 1997

Survey by: Greg A Jewell, PE< RLS
Jewel & Associates, Inc.
P.O. Box 718
Spring Green, WI 53588

Survey for: Dennis L. & Maria L. Peterson
8800 75th St.
Kenosha, WI 53142

Owners: Dennis L. & Maria L. Peterson
8800 75th Street
Kenosha, WI 53142

SURVEYOR'S CERTIFICATE

I, Greg A Jewel, Registered Land Surveyor, hereby certify that I have surveyed, divided, and mapped the parcel hereon described under the direction of Dennis L. Peterson, Maria L. Peterson, owners, a part of the SE ¼ of the SE ¼ of Section 5, T 1 N, R 22 E, Village of Pleasant Prairie , Kenosha County, Wisconsin, The exterior boundaries of which are more fully described as follows:

Commencing at the Southeast corner of Section 5, T 1 N. R 22 E, thence S 89°46'36" W, 190.00'along the south line of the SE ¼ of the Se ¼ of said section 5, to the point of beginning; thense continuing along said south line S 89°46'36" W,425.22'; thence N 02°14'14" W, 33.02" to a point on the north right-of-way line of A.T.H. 50: thence continuing N 02°14'14" W, 279.74'; thence N 89°46'02" E, 206.99'; thence N 02°17'09" W. 259.88' to a point on the south right of way of 89th Ave,; thence 89°38'12" E, 141.91'; thence N 89°45'48" E. 183.03, N 89°45'48" E, 13.69', to a point on the west right-of-way of C.T.H. "H"; thence S 02°16'17" E along said C.T.H. "H" right of way thence S 02°16'17" E, 150.00', along said C.T.H. "H" right of way, to a point on the north right-of-way of S.T.H. 50; thence S 77°31'14" W, 142.13' along the said north right-of-way of S.T.H. 50; thence S 02°16'17"E, 33.02' to the point of beginning.

Said parcel contains 267,947 square feet (6.15 acres), more or less.

That I have complied with the provisions of Chapter 236.34 of the Wisconsin State Statues, the Village of Pleasant Prairie Land Division Ordinance in Surveying, dividing, and mapping this parcel to the best of my knowledge and belief and that such plat is a correct representation of all exterior boundaries of the land surveyed and divided.

Dated this 7th day of July, 1997

Surveyor
"S/" Greg S. Jewel S-1898

SEAL

WISCONSIN LAND
SURVEYOR
GREG A. JEWELL
S-1898
SPRING GREEN WIS.

CERTIFIED SURVEY MAP

A part of the SE ¼ of the SE ¼ of Section 5, R 1 N, R 22 E., Village of Pleasant Prairie, Kenosha County, Wisconsin.

Date: May 23, 1997

Survey by: Greg S Jewell, PE, RLS
Jewell & Associates, Inc.
146 W. Jefferson St.
P.O.Box 718
Spring Green, WI 53588

Survey for: Dennis L. & Maria L. Peterson
8800 75th St.
Kenosha, WI 53142

Owners: Dennis L. & Maria L. Peterson
8800 75th St.
Kenosha, WI 53142

OWNER'S CERTIFICATE

As owners, we hereby certify that we caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on this plat. We also certify that this Certified Survey Map is required to be submitted to the following for approval, Village of Pleasant Prairie.

"S/" Dennis L. Peterson
"S/" Maria L. Peterson

STATE OF WISCONSIN
KENOSHA COUNTY S.S.

Personally came before me this 7th day of July , (hand written) the above named Dennis L. and Maria L. Peterson: to me known to be the persons who executed the foregoing instrument and acknowledged the same.

My commission Expires 11-06-00

"S/" Amanda M. Johnson

_____

Notary Public

VILLAGE OF PLEASANT PRAIRIE CERTIFICATE

This certified survey map has been submitted to and approved by the Village Board of the Village of Pleasant Prairie on this 7th day of July , 1997 (hand written)

"S/" Wayne E. Koessl
Plan Commission Chairman

APPROVED "S/" John P. Steinbrink
Village President

Attest: "S/" Jane M. Romanowski-Village Clerk

SEAL
WISCONSIN
LAND SURVEYOR
"s/" GREG A. JEWELL
S-1898
SPRING GREEN WIS.

CERTIFIED SURVEY MAP

A part of the SE ¼ of Section 5, T 1 N, R 22 E., Village of Pleasant Prairie, Kenosha County, Wisconsin.

Date: May 23, 1997

Survey by: Greg A Jews, PE. RLS

Survey for: Dennis L. & Maria L. Peterson

Owners: Dennis L. & Maria L. Peterson

UTILITY EASEMENT PROVISIONS

An easement for electric and communications service is hereby granted by Dennis L. Peterson, and Maria L. Peterson, owners, grantor to

Wisconsin Electric Power Company,
Ameritech, and Warner Cable, Grantees,

(RECITALS, DISCRIPTIONS, FOR ALL TIME)

The grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

SEAL
WISCONSIN
LAND SURVEYORS
"s/" GREG A. JEWELL
S1898 SPRING GREEN WIS.

DEDICATIONS

1. The fee interest in all areas shown as dedicated public streets on this Certified Survey Map are hereby dedicated, given, granted and conveyed by Dennis L Peterson, and Maria L. Peterson, (the "Sub-divider") to the Village of Pleasant Prairie and its successors and assigns (collectively, the "Village") for public street improvements, uses and purposes, including, without limitation, pavement, curbs and gutters, sidewalks, street signs and lights, sanitary

sewerage system improvements, water system improvements, storm sewer and drainage system improvements, utilities, street trees and other landscaping, and for all related and incidental ingress and egress, construction, installation, repair, alteration, replacement, planting and maintenance activities.

2. An easement coextensive with the area shown as detention basin, drainage and maintenance purposes on this Certified Survey Map is hereby dedicated, given granted and conveyed by the Sub-divider to the Village for drainage-way and storm water detention basin use purposes and related public improvements, and for all related and incidental ingress and egress, construction, installation, alteration, replacement, repair, planting and maintenance activities. The Village shall only access this easement directly from 74th Street.

3. Easements coextensive with the eastern and southern portions of lot 1 and the southern 20 feet of lot 2 shown as a planting screen and maintenance easement on this Certified Survey Map,

REPETIOION OF 2

4. Easements coextensive with areas shown as utility easements on the Certified Survey Map are hereby separately dedicated, given, granted and conveyed by the Sub-divider to Wisconsin Electric Power Company, Wisconsin Natural Gas Company, Ameritech and Warner Cable, and their respective successors and assigns (collectively, the "Utility Grantees"),

REPETITION
Village rights shall be deemed to be superior.

5. An easement coextensive with the area shown as a sanitary sewer easement on lot 2 on this Certified Survey Map is hereby dedicated, given granted and conveyed by the Sub-divider to the Village for .....REPETITION..... and is permitted by applicable restrictive covenants and Village ordinances.

SEAL
WISCONSIN
LAND SURVEYOR
GREG A.
JEWELL
SPRING GREEN WIS.

DOCUMENT NUMBER 1053441
CERTIFIED SURVEY MAP
RECORDED
AT THE KENOSHA COUNTY, KENOSHA, WI 53140
LOUISE I PRINCIPE, REGISTER OF DEEDS
ON 7/10/1997 AT 9:23 A.M.
970027184 20.00
SANF REGDEED2

QUIT CLAIM DEED

DOCUMENT NUMBER

1063440
Quit Claim Deed
RECORDED
At Kenosha County,
Kenosha, WI. 53140
Louise I. Principe,
Register of Deeds
On 7/10/1997
at 9:21 AM
970027184 14.00
SANF REDEED2

Fee
3
EXEMPT

RERECORDED

RETURN TO
J. Maan De Kok
1025 56th St.
Kenosha , WI 53140

Parcel Identification Number (PIN
91-4-122-054-0230
91-4-122-054-0240

DOCUMENT NUMBER
1073758

Quit claim deed
RECORDED
At Kenosha County,
Kenosha, WI 53140

On 10/17/1997 at 3:37 PM
970048014 14.00
MASI REDEED2

This page is part of a legal document...
DO NOT REMOVE.

QUIT CLAIM DEED

This Deed, made between **PDQ FOOD STORES INC.** GRANTOR, and **DENNIS L. PETERSON** and **MARIA L. PETERSON,** husband and wife, GRANTEE

RETURN TO
Richard C. Glesner, Esq.
Michael, Best & Friedrich
Suite 700
One South Pinckney Street
P.O. Box 1806
Madison, WI. 53701-1806

Grantors, for Valuable consideration The receipt and sufficiency of which is hereby acknowledged convey to Grantee the following described real estate in Kenosha County, State of Wisconsin :

91-4-122-054-0230
91-4-122-054-0240
(Parcel Identification)

SEE LEGAL DESCRIPTION ATTACHED HERETO

THIS DEED IS RE-RECORDED SOLELY TO CORRECT THE LEGAL DESCRIPTION WHICH APPEARED ON THE EXHIBIT TO THIS SAME CONVEYANCE WHICH WAS PREVIOUSLY RECORDED July 10, 1997 AS DOCUMENT # 1063440 IN THE OFFICE OF THE REGISTER OF DEEDS FOR KENOSHA COUNTY.

This is not a homestead property

Together with all and singular the heireditaments and appurtenances thereto belonging:
And PDQ FOOD STORES INC.
Warrant that the title is good, indefeasible
In fee simple and free and clear of encumbrances except a certain Restrictive Covenant recorded April 18, 1997, as Document No 1052133 in the Office of the Kenosha County Register of Deeds for the benefit of PDQ Food Stores, Inc. PDQ Food Stores, Inc. expressly reserves onto itself, and municipal and zoning ordinances and agreements entered under them, recorded assessments for the distribution of utility and municipal services, other recorded building and use restrictions and covenants, if any, and general taxes levied in year of closing and will warrant and defend the same.

This document is intended to reform a Conveyance previously entered into by and between the parties.

AUTHENTICATION

Signature of Jerry Archer
Authenticated this 7th day of July, 1997.

_____"S/"_____
Richard C. Glesner
TITLE: MEMBER STATE
BAR OF WISCONSIN

PDQ FOOD STORES, INC.

By:

___"S/"_____
JERRY ARCHER,
Executive Vice President

THIS INSTRUMENT WAS DRAFTED BY

Richard C. Glesner, Esq.
Michael Best & Friedrich
700
One South Pinckney Street
P. O. Box 1806
Madison, WI. 53701-1806

WARRAMTY DEED STATE BAR OF
WISCONSIN
FORM NO. 2 1982

E:\XF\CLIENT\73130\0021\all0437.w52/7/3/97

LEGAL DESCRIPTION

MILL

PARCEL 1: Part of the southeast ¼ of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning at the southeast corner of the south east ¼ of section 5: thence west along and upon the south line of said ¼ section, 165 feet: thence running north parallel with the east line of said ¼ section 165 feet: thence running west, parallel with the south line of said ¼ section 243 feet: thence running north parallel with the east line of said ¼ section 408 feet: thence running east, parallel with the south line of said ¼ section 408 feet to the east line of said ¼ section : thence running south along and upon the east line of said ¼ section 573 feet to the point of beginning, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

FRONT DRIVEWAY

PARCEL II Part of the southeast ¼ section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast ¼ of section 5, at the point which is 165 feet west from the southeast corner of said ¼ section, and running thence west , along and upon the south line of said ¼ section and the center line of the Geneva Road (Hwy. #50) so-called, a distance of 25 feet: thence running north, parallel with the east line of said ¼ section, 165 feet: thence running east, parallel with the south line of said ¼ section, 25 feet: thence running south, parallel with the east line of said ¼ section 165

feet to the place of beginning, EXCEPTING THEREFROM the parcel of land conveyed to the County of Kenosha by instrument recorded August 3, 1961 in Volume "585" records, page 336, document number 42975, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

RENTAL HOUSE

PARCEL III : Part of the southeast ¼ of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast ¼ of said section, at a point which is 190 feet west from the south east corner of said ¼ section, and running thence west along and upon the south line of said ¼ section, and the center line of the Geneva Road (Highway"50"so-called, a distance of 100 feet: thence running north, parallel with the east line of said /4 section 165 feet: thence running east, parallel with the south line of said ¼ section, 100 feet: thence running south parallel with the east line of said ¼ section, 165 feet to the place of beginning, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

PARKER HOUSE

PARCEL IV: Part of the east ½ of the southeast ¼ of section 5, town 1 north range 22 east of the fourth principal meridian, more particularly described as follows: commencing on the south line of said ¼ section at a point 165 feet west of the south east corner of said 1/rth parallel with the east line of said ¼ section 165 feet: thence west parallel with the south line of said ¼ section

165 feet: thence west parallel with the south line of said ¼ section 243 feet: thence south parallel to east line of said ¼ section 165 feet to the south, line of said ¼ section: thence east on the south line ¼ section to the place of beginning. EXCEPTING THEREFROM the east 125 feet of said parcel of land, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

WISCONSIN REAL ESTATE TAX TRANSFER RETURN

I
Grantor: (1) PDQ FOOD STORES INC.

(2) P.O. BOX 620997
MIDDLETON, WI. 53562-0997

II Grantee: (4) DENNIS L. & MARIA L. PETERSON
(5) C/O JOHN MAAN DE KOK
P.O. BOX 677
KENOSHA, WI 53140-0677
(6) Grantor – Grantee Related
None X
(7) Send bill to :
PDQ FOOD STORES INC.
P. O. BOX 620997 ,
MIDDLETON, WI.

III Energy: X no W4

IV PROPERTY TRANSFERRED
(9) Village of Pleasant Prairie
Kenosha WI.

(10) 8800 -- 8820 75th Street
(13) Section 5 Township IN Range 22E

V PHYSICAN DESCRIPTION AND USE
(15) XX land and buildings
(16) b. X Retail

VI TRANSFER
(18) Correction of previous Deed
1063440

VII COMPUTATION OF FEE
(25) Value $637,500.00
(26) Transfer fee due -0-
(27) Exemption Number (3)

IX CERTIFICATION
GRANTOR AGENT
"S/" Steven Schnieder Date 10/17/97 Print Name
"S/" Steven Schnieder 570 56th Street
Kenosha, WI.53140
Phone: unreadable

Document number
1073758 / 1063440
Date recorded unreadable
Date and kind of conveyance QCDeed

THE IMPOSSIBLE DEED

QUIT CLAIM DEED

Document number
1073759
QUIT CLAIM DEED
RECORDED
At Kenosha County,
Kenosha WI 53140
Louise I. Principe
Register of Deeds
On 10/17/97 at 3:38 PM
970048014 12.00
MAGI REDEED2

On the side
Is hand
Written
Title
Insurance #
T I
23474-S
_____Schneider_____

Return to
Richard C. Glesner, Esq.
Michael, Best & Friedrich
Suite 700
One South Pinckney Street
P. O. Box 1806
Madison, WI. 53701-1806

Parcel Identification
91-4-122-054-0230 and
92-4-122-054-0240

Fee
3

exempt

This Deed, made between DENNIS L. PETERSON and MARIA. L. PETERSON , husband and wife, GRANTOR and PDQ FOOD STORES, INC. GRANTEE

Grantors, for valuable consideration the receipt and sufficiency of which is hereby acknowledged convey to Grantee the following described real estate in Kenosha County, State of Wisconsin;

SEE LEGAL DISCRIPTION ATTACHED HERETO

THIS DEED IS RE-RECORDED AS OF THIS 25TH DAY OF SEPTEMBER, 1997, SOLELY TO CORRECT THE LEGAL DESCRIPTION WHICH APPEARD ON THE EXHIBIT TO THIS SAME CONVEYANCE WHICH WAS PREVIOUSLY RECORDED JULY 21, 1997 AS DOCUMENT # 1064467 IN THE OFFICE OF THE REGISTER OF DEEDS FOR KENOSHA COUNTY.

This is not a homestead property.

Together with all and singular the hereditaments and appurtenances thereunto belonging:
And DENNIS L. PETERSON and MARIA L. PETERSON warrant that the title is good, indefeasible in fee simple and free and clear of encumbrances except municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants specifically excepting and preserving for the benefit of PDQ Food Stores Inc. a Restrictive Covenant Recorded April 18,

1997, as Document No. 1052133 with the Kenosha County Register of Deeds, and general taxes levied in year of closing and will warrant and defend the same.

This document is entered into to reform a previously recorded conveyance between the parties to this conveyance

Dated this 7th day of June, 1997

"S/" Dennis L. Peterson

"S/" Maria L. Peterson

ACKNOWLEDGEMENT

State of Wisconsin)
) ss
Kenosha County)

Personally came before me this 7th of June, 1997, the above DENNIS L. PETERSON and MARIA L. PETERSON to me Known to be the person who executed the foregoing instrument and acknowledge the same.

THIS INSTRUMENT WAS DRAFTED BY

John Maan de Kok
Attorney at La

WARRANTY DEED STATE BAR OF WISCONSIN FORM NO. 2

E:\xf\client\7313\0000\all0319.w52|7/3/97

REASONS WHY THIS DEED IS IMPOSSIBLE

Red refers to Court Exhibits

1. Supposedly PDQ already had Title in June. I cannot give you that which you already have

2. You may not claim Title without a Survey , when constructing a new site.

3. This is homestead property. Peterson's lived and ran a business on this site for ten years.

4. June 7 , 1997 was a Saturday. In Amanda Johnson - Truax Affidavit and Testamony, she stated Mayhew is Jewish. They do not open on Saturday. At that time she was the receptionist, she answered the phone. She always places the date when she signs. Exhibit # 5 p. 14

5. This instrument states drafted by John Maan De Kok. That is a False Statement. Illegal S.S. 943.38(1) Whoever with intent to defraud falsely makes or alters a writing or object of any of the following kinds so that it purports to have been made by another, ***or at another time, or with different provisions,*** or by authority of one who did not give such authority, is guilty of a class H felony.

6. The computer dates states all 0319 created on April 26, 1997. This was signed at my Mothers' kitchen table. We were told that Title for Parcel A had been mistakenly placed on PDQ deed. Attorney Glesner testified in Court that he had created the deed on that day. Exhibit # 2 p. 17 and Exhibit 4 p. 32

This Q/C Deed was once again recorded as Document # 1073759 on October 17, 1997 at 3:38 PM. PDQ had received the letter from Al Brokmeier and Peggy Keuler on September 12, 1997 alerting them to the problem with the Certified Survey Map. This was PDQ and Attorney Glesner's solution. ExhibIT # IV P. 25 Refer to Exhibit # IV p. 32 This Deed was created in April, 1997. 30 days to record.

It also bears the Title Insurance number TI 23474 - S the statement say's

This Deed is recorded as of this 25th day of September, 1997, SOLEY to correct the legal description which appeared on the exhibit to this same conveyance which was previously recorded July 21, 1997 as Document # 1064467 in the office of the Register of Deeds for Kenosha County.

Plaintiff's filed two Fraudulent Deed Reports against both these Deeds. Documents numbered 1064467 , 1073759 // 1376377 and 1376380

NEW REGISTER OF DEEDS 9/23/2008

785919 Roger C. and Pamela A. Strouff
SALE to Dennis L. and Maria L.
Peterson August 20, 1987

1052133 Restrictive Coveant
LOT 2 will not sell to other gas stations

1052134 Warranty Deed Peterson's to PDQ
3/24/97 3 original Parcels Tax paid
Escrow Agreement –
Close 181 days
Escrow Agreement – Peterson's must
Now agree to be Developers

1052343 Warranty Deed Parker 3/25/97
Title Insurance 23590-S

Title Insurance Number 23474 by
Schneider taken out by PDQ on August
20, 1996. When Peterson's signed the
Offer to Purchase.

1054173 Satisfaction of Real Estate Security
Agreement Advantage Bank April 11,
1997 Three parcels Document
No. 941406
Title Insurance 23474

1054174 Satisfaction of Mortgage
April 11, 1997 Document No. 941405
three parcels.
Title Insurance 23474

1063440 PDQ Food Stores Inc. to Peterson Quit Claim Deed July 7, 1997 At the bottom it states Warranty Deed Signed by Jerry Archer (PDQ Vice President) Prepared and Authenticated by Attorney Glesner (PDQ Attorney)

1063441 CSM 1981 Confirm Survey July 7, 1997 Jewel Engineers May 23, 2997 Peterson's owners Lot 1, Lot 2, Lot 3 Peterson's were given and still retain Large Maps Parker Parcel Doc. # 1052343 included in survey as belonging to Peterson's . Village gave approval to this CSM on July 7, 1997 Doc. # 1063441

1063509 Memorandum of Development July 9, 1997 Peterson's signed on July 9, 1997

1064196 Peterson to David Aul Parcel A Sale July 11, 1997 Peterson's sold Lot 2

1064467 Peterson to PDQ Quit Claim Deed Dated June 7, 1997 Registered July 21, 1997 Three Parcels Title Insurance 23474 FRAUDULENT DEED REPORT #1376377

1073758 PDQ TO Peterson Quit Claim Deed To Correct July 10 (1063440) This now gives legal Deed to Peterson's on Parker Lot Doc. # 1052343 now has four

parcels added Parker house.

1073759 Peterson to PDQ Filed October 17, 1997 June 7, 1997 Q/C recording corrections made in September 1997 now has four parcels
FRAUDULENT DEED REPORT
Doc. # 1376380

1088850 M & I Bank Mortgage $2,200,000.00 March 13, 1998

1088852 Financial Statement to M & I Bank Parcel 91-4-122-054-0251 March 13, 1998 Gas Station and Car Wash

1088854 Assignments – Lease and Rents March 13, 1998 Title Insurance 23474 Gas Station and Car Wash

1124684 Quit Claim Deed Nov. 17, 1998 PDQ Food Stores Inc. to Ideal Financial

OLD NUMBERS 91-4-122-054-0230
Back Parcel
NEW MUMBERS 91-4-122-054-0253

Front Parcel Numbers Changed to
91-4-122-054-0251
OLD NUMBERS 91-4-122-054-0230
91-4-122-054-0240
91-4-122-054-0242

Back Parcel Numbers Changed to
91-4-122-054-0253
OLD NUMBERS 91-4-122-054-0230

1144473 Quit Claim Deed May 7, 1999 to Ideal Financial Services Corp. to RPM Investments II, L.L.C. Back Parcel

1290777 Financing Statement Amendment October 22, 202 Amending Original 1088852 dated 3/13/98

1376377 FRAUDULENT DEED REPORT filed by Peterson's Four Parcels March 3, 2004 Against Peterson to PDQ Doc. # 1064467

1376380 FRAUDULENT DEED REPORT filed by Peterson's Three Parcels March 3, 2004 Against Peterson to PDQ Doc. # 1073759

1421019 Quit Claim Deed Jan. 14, 2005 RPM Investments, LLC - Edens Bank $215,000.00 Recorded February 2, 2005

1463933 Lis Pendens Filed by Peterson's December 28, 2005 Front parcels

1463934 Lis Pendens Filed by Peterson's December 28, 2005 Back parcel

1511219 Attorney Aiello Filed Court Transcript March 11, 2007
Decission: of Court File a new Deed with Date of July 21, 1997 Old Numbers. Peterson to PDQ NO NEW DEED FILED.

1513607 Lis Pendens Filed by Peterson's March

14, 2007 Old Numbers and New Numbers entered Appeal Entered Case No. 2007AP000347 Front Parcel

1513608 Lis Pendens Filed by Peterson's March 14, 2007 Old Numbers and New Numbers entered Appeal Entered Case No. 2007AP000347 Back Parcel

1569896 Peterson's filed new Q/C Deed Full report of Reasons October 13, 2008 Peterson's to Peterson's All parcels New Numbers and Old Numbers

1575716 Lakeview Investments Inc. Filed Court order Peterson's not to file another Lis Pendens January 2009

Advantage Bank Accounts Opened March 21, 1997 $140.00 Per day Per-diem Stopped August

$61,810.13 01-18913301 Net from Closing March 21, 1997 Kenosha Title

$230,000.00 0118913352 Trust Account Opened Exhibit # 174 March 23, 1997 Advantage Bank

$ - - - Unknown 389381693 account number Opened for Benefit of Peterson's March 23, 1997

Account # 1915007909 Monthly sweep from $230,000.00 Check sent to Peterson's Received approximately $900.00 per month From November 1997 until March 21, 1998

AGREEMENT TO EXCHANGE CONVEYANCES

AGREEMENT
TO
EXCHANGE CONVEYANCES

Agreement made this 7th day of June, 1997 (the "Effective Date"), by and between PDQ Food Stores Inc., a Wisconsin Corporation (PDQ") and Dennis L. and Maria L. Peterson ("Petersons").

RECITALS:

PDQ and Petersons entered into a Commercial Offer to Purchase dated August 15, 1996 (the "Contract") for the purchase and sale of certain premises located at the northwest quadrant of Highway 50 and 88th Avenue in the Village of Pleasant Prairie, Kenosha County, Wisconsin known as the "Rockin Robins Mill" property (the "Property"), described in attached Exhibit A.

Petersons by the terms of the Contract were contractually obligated as a condition precedent to closing to agree to construct at their sole expense and to insure the construction of the extension of 74th Street (the "Roadway") to provide ingress and egress to the Property in accordance with the terms and specifications of the Village of Pleasant Prairie Development Agreement a ***draft*** of which was first provided to PDQ by the Village on March 21, 1997.

PDQ understood that if it closed on the Property prior to finalization and execution of the Development Agreement, that as fee owner of the

Property PDQ would appear in the Development Agreement as a required signatory ***only*** and that under no circumstances would PDQ become the "Developer", or be deemed to have undertaken or assumed any monetary or nonmonetary obligations or liabilities of the Developer under the Development Agreement. The capacity in which PDQ would appear in the Development agreement was discussed with counsel for Petersons at the Closing and upon subsequent occasions. Peterson's counsel concurred with PDQ's understanding and suggested that PDQ's counsel provide language to appropriately define the capacity in which PDQ would appear in the Development Agreement. Counsel for PDQ, in two letters addressed to counsel for Petersons dated May 28, 1997 and May 29, 1997 , provided suggested language for incorporation into the Development Agreement. (Exhibits B-1 and B-2). A copy of each letter was directed to the Community Development Director for the Village of Pleasant Prairie.

PDQ and Petersons closed pursuant to the terms and provisions of the Contract March 21, 1997, (the "Closing Date") at which time PDQ became vested with fee ownership of the Property, PDQ since the Closing Date through its representatives and Michael, Best & Friedrich, its counsel, periodically and repeatedly communicated with representatives of the Village regarding finalization of the Development Agreement as well as for the purpose of providing documentation required as a condition precedent to finalization of the closing on the Development Agreement. In spite of frequent telephone calls to

Village representatives prior to July 2, 1997, PDQ was never informed by representatives of the Village that it would be required to execute the Development Agreement ***in any other capacity other than as a required signatory only.***

In support of PDQ's expectation in that regard, a proposed "final draft" of the Development Agreement wa provided to PDQ by the Village on or about June 24, 1997, together with various staff recommendations and proposals. The proposed "final draft" of the Development Agreement incorporated a separate paragraph No 55 entitled "PDQ Food Stores, Inc. Responsibilities of this Agreement". No substantive provisions followed the paragraph reference. It was the expectation of PDQ that a provision in substantially the following form which had been proposed to the Village by PDQ's counsel in a letter dated June 24, 1997 (copy attached as Exhibit C) addressed to Jean M. Werbie, Community Development Director for the Village as co-drafter of the Development Agreement, would be incorporated in the Development Agreement:

> 55. PDQ Food Stores, Inc. Responsibilities of this Agreement.
>
> PDQ Food Stores, Inc. is owner of record of Property formerly owned by the Developer (see Exhibit A) and is therefore required to appear in this Development Agreement solely by reason of PDQ Food Store Inc.'s fee

ownership of Property affected by the Development Agreement.

PDQ Food Stores, Inc. appears in and signs this Development Agreement as a required signatory *only*. It is agreed by the Village and the Developer that PDQ Food Stores, Inc. by executing this Development Agreement, shall not become a party to this Development Agreement, shall under no circumstances, become the "Developer" and will not be deemed to undertake or assume any monetary or non-monetary obligations or liabilities of the Developer under this Development Agreement.

On July 2, 1997, PDQ was informed through its counsel by the Community Development Director of the Village that she was not authorized to and would not incorporate the preceding provisions as Paragraph 55 and that although the paragraph heading appeared in the proposed final draft of the Development Agreement, the execution draft would neither incorporate reference to Paragraph 55 nor the preceding provisions of the proposed Paragraph 55.

In order to fulfill PDQ's expectations with respect to the capacity in which it reasonably anticipated it would enter into the Development Agreement , the parties through their counsel have conceptually agreed as follows:

- PDQ will convey the Property back to the Petersons effective July 7, 1997, the date the Village has scheduled formal consideration and approval of the Development Agreement. By virtue of such conveyance, PDQ will not be fee owner of the Property as of the date of final consideration of the Development Agreement (July 7, 1997) by the Village or as of the date anticipated for closing on the Development Agreement (July 10, 1997 the "Proposed Closing Date") and will therefore not be required to enter into or appear in the Development Agreement in any capacity. The conveyance by PDQ to the Petersons will be delivered to Petersons' counsel on July 7, 1997, prior to final consideration of the Development Agreement by the Village.

- The Petersons will ***contemporaneously*** enter into a conveyance back to PDQ which will be delivered to a representative of PDQ in exchange for the conveyance by PDQ to the Petersons. The conveyance by Petersons to PDQ will thereafter be held by PDQ's counsel until the Village and Petersons close on the Development Agreement at which time counsel for PDQ shall be authorized to record the conveyance by the Petersons to PDQ.

- Each of the conveyances, for transfer fee considerations, will expressly state that

each conveyance was for the purpose of "reforming a previously recorded document" pursuant to the transfer fee exemption provided by Section 77.25(3) of the Wisconsin Statutes.

CONVEYANCE EXCHANGE PROCEDURES

In furtherance of the preceding exchange procedure, the Parties for valuable consideration and receipt and sufficiency of which is acknowledged, agree as follows:

1. PDQ's Conveyance to Petersons. PDQ shall execute the Quit Claim Deed and associated Real Estate Transfer Return (copies attached as Exhibits D-1 and D-2) , and deliver each of the executed documents to Petersons' counsel July 7, 1997.

2. Petersons Re-conveyance to PDQ . Petersons shall execute the Quit Claim Deed and associated Real Estate Transfer Return (copies Attached as Exhibits E-1 and E-2) , and shall contemporaneously deliver each of the executed documents to Randy Manning, Director of PDQ's Property Division June 7, 1997, for delivery to PDQ's counsel.

3. Acknowledgment of Survival of Agreements. Petersons acknowledge and agree that the exchange procedures referred to in the preceding paragraphs 1 and 2 shall in no manner relieve the Petersons of:

(A) The terms and provisions of the Escrow Agreement entered into by and

between the Peterson, PDQ and Kenosha Title Services, Inc. effective March 5, 1997, (copy attached as Exhibit F without accompanying Development Agreement exhibit.)

(B) The terms and provisions of the Restrictive Covenant entered into by and between the Petersons and PDQ March 21, 1997, (copy attached as Exhibit G). The Restrictive Covenant shall be expressly referred to and preserved in the text of each of the conveyances referred to in Paragraphs 1 and 2 of this Agreement.

4. **Notification of Village of Pleasant Prairie.** Peterson, through their counsel, shall inform the Village that effective July 7, 1997 and as of the date of the subsequent closing on the Development Agreement that Petersons shall be fee owners of the Property and as fee owners are the only parties required to appear in or execute the Development Agreement as the "Developer" and that all references to PDQ in prior drafts of the Development Agreement are to be deleted in their entirety in the final Development Agreement and the associated Memorandum of Development Agreement.

5. **Best Efforts.** Petersons, through their counsel, shall exercise diligent efforts to timely finalize and close on the Development Agreement and all associated documents and exhibits.

6. Notification of Closing: Recording of

Petersons Re-conveyance. Petersons' counsel shall notify PDQ 's counsel, as soon as practicable after the closing on the Development Agreement and recording of the Memorandum of Development Agreement of such occurrences whereupon PDQ's counsel shall be authorized without further authorization from the Petersons or their counsel to record the conveyance by the Petersons to PDQ with the Kenosha County Register of Deeds.

7. Owners Affidavit. Petersons shall execute an Owner's Affidavit as to Construction Liens and Possession in substantially the form of the Affidavit attached as Exhibit H to indemnify PDQ against any adverse claims and adverse matters that may have occurred or been asserted during the period of time commencing July 7, 1997 through the date PDQ records the conveyance from the Petersons to PDQ

8. Endorsement of Title Commitment. Petersons, through their counsel, agree to cooperate with and assist PDQ's counsel as reasonably required in obtaining from Kenosha Title Services Inc. an Endorsement to existing Title Commitment No TI23474 to insure PDQ as to matters which may occur or be asserted against the Property during the period beginning July 7, 1997 through the date PDQ records its conveyance from the Petersons to PDQ.

9. General Provisions.

(A) Governing Law. This agreement

shall be governed by, and construed in accordance with, the laws of the State of Wisconsin.

(B) Modifications. This Agreement may be amended or modified only by written instrument executed by both of the parties hereto.

(C) Notices. All notices, consents or other instruments or communications provided for under this Agreement shall be in writing, signed by a party giving the notice, and shall be deemed properly given and received when delivered by messenger, telecopier, overnight commercial carrier regular mail and actually received or, o the third business day after mailing, if sent by certified mail return receipt requested, postage prepaid, to the address of the party set forth below or to such other address as such each may designate by written notice to the other party given in accordance with this Paragraph (C).

If to PDQ: PDQ Food Stores, Inc.
Attn: Randy Manning
P.O. Box 620997
8883 Greenway Boulevard
Middleton, WI 53562-0997
Phone: (608) 836-8233

With a contemporaneous copy or electronic transmission to:

Michael, Best & Friedrich
Attn: Richard C. Glesner

P.O. Box 1806
One South Pinckney Street
Madison, WI 53701-1806
Phone: (608) 257-3501
Facsimile: (608) 283-2275

If to Peterson: Dennis L. & Maria L. Peterson
5846 Spruce Creek Woods Drive
Port Orange, Fl 32127

With a contemporaneous copy or electronic transmission to:

John Maan de Kok
Phillips, Richards, Mayew
& Corrigal, S.C.
1025 56th Street
Kenosha, WI 53140
Facsimile: (414) 658-9346

(D) Captions and Headings. The captions and headings of various sections of this Agreement are for convenience only and are not to be construed as confining or limiting in any way the scope of intent of the provisions of this Agreement, Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and masculine, feminine and neuter shall be freely interchangeable.

(E) Severability of Provisions. In any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this

Agreement shall be construed as if the invalid, illegal or unenforceable provision had never been contained herein.

(F) Time of Essence. Time is of the essence.

(G) Counterparts. This Agreement may be executed in any number of counterparts each of which shall be deemed an original.

(H) Litigation. In commection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.

(I) Binding Effect. This Agreement shall be binding upon and shall incur to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

PDQ FOOD STORES, INC.

By: "S/" Jerry Archer
Executive Vice President
PETERSONS

Authenticity of Signature is Questionable

"S/" Dennis Peterson

Authenticity of Signature is Questionable

"S/" Maria L. Peterson

NO DATE OF SIGNATURE

By Attorney Glesner's order to Mr. Manning , Attorney Maan De Kok was to witness and sign.

All pages of this Document were copies with spiral binding marks on the left side. This signature page was the only page in the book with no spiral binding marks. It was inserted later. No bound book was ever presented to Peterson's for signing.

Drafted by: Michael, Best & Friedrich
Richard C. Glesner
One South Pinckney Street
P.O. Box 1806
Madison, Wisconsin 53701-1806

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EXHIBIT A

PARCEL 1: Part of the southeast 1/4 of section 5, town 1 north range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning at the southeast cornerof the southeast 1/4section 5; thence west along and upon the south line of said 1/4 section 165 feet; thence running west, parallel with the south line of said 1/4 section 243 feet; thence running north parallel with the east line of said 1/4 section 408 feet; thence running east, parallel with the south line of said 1/4 section 408 feet to the east line of said 1/4 section; thence running south along and upon the east line of said 1/4 section 573 feet to the point of beginning, lying and being in the Village of Pleasant Prairie. County of Kenosha and State of Wisconsin.

PARCEL II: Part of the southeast 1/4 of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast 1/4 of section 5, at a point which is 165 feet west from the southeast corner of said 1/4 section, and running thence west along and upon the south line of said 1/4 section and the center line of the Geneva Road (Hwy. # 50) so-called a distance of 25 feet; thence running north, parallel with the east line of said 1/4 section, 165 feet; thence running east , parallel with the east line of said 1/4 section 165 feet to the place of beginning, EXCEPTING THEREFROM THE PARACEL OF LAND CONVEYED TO THE County of Kenosha by instrument recorded August 3, 1961 in Volume "585" Records, Page

336, document number 429675, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

PARCEL III: Part of th southeast 1/4 of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast 1/4 of said section, at a point which is 190 feet west from the southeast corner of said 1/4 section, and running thence west along and upon the south line of said 1/4 section, and the center line of the Geneva Road (Highway "50") so-called, a distance of 100 feet; thence running south parallel with the east line of said 1/4 section 165 feet to the place of beginning, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

MICHAEL BEST
& FRIEDRICH
Attorneys at Law

Writers' Direct Line:
608-282-4420

MY 28, 1997

Mr. John Maan de Kok
Phillips, Richards, Mayew & Corrigal, S.C.
P.O. Box 677
Kenosha, WI 53140-0677

RE: Rockin' Robin"s Site

Dear John:

Thank you for your cooperation and the information you provided Tuesday in Connection with the proposed Development Agreement for the Extension of 74th Street by the Peterson's

After I spoke with you I conferred with Randy Manning regarding approval of the Development Agreement by the Planning Commission and the Village Board. It was my understanding from our conversation that conditional approval of the Agreement would be considered at the next planning Commission meeting and that you would close on the Agreement the next following week. Jenny, Jean Werbie's secretary, called after I had placed a call to Jean with regard to the Agreement.. She indicate the Agreement would not be considered tomorrow evening nor was the Agreement scheduled for consideration at the next planning Commission meeting. Please

confirm that the Agreement will be considered for conditional approval on June 2, 1997.

We discussed the requirement that PDQ sign as a signatory only on the Agreement and that PDQ would not be signing the Agreement become a developer or assume any of the obligations or liabilities of the Developer under the Agreement. A provision to that effect should be incorporated in the final draft of the Agreement. I will draft a proposed provision and send it to you under separate cover.

Randy has confirmed that he has received both sets of staff comments regarding construction approvals. Apparently there are only a few remaining items to e completed on the Construction Checklist before the Checklist may be finally submitted to the Village

Very truly yours,
MICHAEL, BEST & FRIEDRICH

"S/" Richard C. Glesner

RCG:tmd

cc: Jerry Archer (by fax)
Randy Manning (by fax)
Jean M. Werbie, Community Dev. Director (by fax)
Village of Pleasant Prairie

MICHAEL BEST
& FRIEDRICH
Attorney's at Law

Writer's Direct Dial:
608/283-4420

May 29, 1997

By Facsimile (414) 658-9346

John Maan de Kok, Esq.
Phillips, Richards, Mayew & Corrial, S.C.
P. O. Box 677
Kenosha, WI 53141-0677

RE: Rockin' Robin's Mill

Dear John:

I suggested that the following language be incorporated in the execution draft of th Development Agreement regarding the extension of 74th Street across the former Rockin' Robbin's property:

> PDQ Food Stores, Inc. signs this Development Agreement as a required Signatory only. It is agreed by the Village and by Peterson, that PDQ Food Stores, Inc, by executing this Agreement shall not become a party to this Agreement, will not become the "Developer" and will not undertake or

assume any monetary or non-monetary obligations or liabilities of the Developer.

As soon as the Development Agreement has been reduced to the format of the final agreement, please forward a copy to me for review on behalf of PDQ Food Stores, Inc.

Very truly yours,

MICHAEL, BEST & FRIEDRICH

"S/" Richard C. Glesner

RCG/kar

Cc: David G Savich
Jerry Archer
Randy Manning

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MICHAEL BEST
& FRIEDRICH
Attorneys at Law

Writer's Direct Line:
(608) 283-4420

June 24, 1997

Ms. Jean M. Werbie
Community Development Director
Village of Pleasant Prairie
P.O. Box 905
Pleasant Prairie, WI 53158

RE: Development Agreement
74th Street Public Improvements

Dear Ms. Werbie:

Thank you for providing the Agenda of the Plan Commission Meeting for June 23, 1997, together with the accompanying Village staff comments and recommendations.

This morning we received a copy of the Memorandum of Development Agreement, and also the proposed Development Agreement. Throughout the acquisition phase of the property purchased from the Petersons by PDQ Food Stores, Inc. we were careful to insure that PDQ would not become the Developer of any of the public improvements required by the Development Agreement. We were aware that PDQ would be required to sign the Development

Agreement, as a signatory only, because of PDQ's acquisition of fee ownership of the property affected by the Development Agreement. Accordingly, we suggested to Attorney Maan de Kok whose office we believe also represents the Village, that the Development Agreement should incorporate a provision to the following effect:

> PDQ Food Stores, Inc. appears in and signs this Development Agreement as a required signatory only. It is agreed by the Village and the Developer that PDQ Food Stores, Inc., by executing this Development Agreement shall not become a party to this Development Agreement, shall not become the "Developer" and will not be deemed to undertake or assume any monetary or non-monetary obligations or liabilities of the Developer.

It appears that you intended to incorporate a similar provision in the Development Agreement at paragraph 55 which is entitled "PDQ Food Stores, Inc.; Responsibilities of this Agreement ". However, the paragraph does not incorporate any further terms or provisions relating to the obligations or responsibilities of PDQ. It appears that the provision we had earlier requested was inadvertently omitted from the Development Agreement.

To facilitate modification of the Development Agreement, and the accompanying Memorandum of Development Agreement, we have drafted type written modifications which appear on each of the

"flagged" pages of the Development Agreement. We also noted in reviewing the Development Agreement, references to various exhibits, including reference to certain restrictions which will be appended to and become a part of the Development Agreement by reference. Please provide a fax copy of the proposed restrictions for our review.

We also noted at page 48 of the Development Agreement, that the Developer (Petersons) are required to represent and warrant to the Village, that they are the fee simple absolute owners of the property at the time of the Agreement is entered into, at the time of the Village Board's final approval of the Development Agreement and at the time the Memorandum of Development Agreement is recorded. Perhaps this is a matter that should be addressed by the Peterson' attorney. Accordingly we are providing a copy of this letter to John Maan de Kok. It does not appear to us however that the Developer will be able to make the required representations, in view of the fact that PDQ Food Stores, Inc. is presently record owner of the Property.

Finally, we are also requesting that certain modifications also appear in the memorandum of Development Agreement to insure that PDQ does not, nor will it be deemed to have undertaken or accepted any of the obligations of the Developer. To facilitate redrafting of the Memorandum, we have incorporated various typewritten changes on each of the flagged pages of the Memorandum.

We believe all of the proposed modifications which appear in the Development Agreement and the Memorandum of Development Agreement are required for the protection of PDQ Food Stores, Inc. and therefore respectfully request that the modifications be incorporated as indicated.

Thank you in advance for your anticipated cooperation. Please forward copies facsimile transmission of the proposed restrictions.

Very truly yours,

MICHAEL, BEST & FRIEDRICH

"S/" Richard C. Glesner

RCG: all

Enclosures

Cc: Jerry Archer (w/encl. by messenger)
Randy Manning (w/encl. by messenger)
John Maan de Kok, Esq. (w/encl.)

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SAMPLE QUIT CLAIM DEED

This Deed, made between **PDQ FOOD STORES INC., GRANTOR.**
And DENNIS L. PETERSON AND MARIA L. PETERSON, husband and wife. **GRANTEE**

RETURN TO:
Richard C. Glesner Esq.
Michael, Best & Friedrich
Suite 700
One South Pinckney Street
P. O. Box 1806
Madison, WI 53701-1806

91-4-122-054-0230 &
91-4-122-054-0240
Parcel Identification Number

This is not homestead property,

Together with all and singular the hereditaments and appurtenances thereunto belonging: and **PDQ FOOD STORES INC.** warrant that the title is good, indefeasible in fee simple and free and clear of encumbrances except a certain Restrictive Covenant recorded April 18, 1997, as Document No 1052133 in the Office of the Kenosha County Register of Deeds for the benefit of PDQ Food Stores, Inc. PDQ Food Stores, Inc. expressly reserves onto itself, and municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, other recorded

building and use restrictions and covenants, if any, and general taxes levied in year of closing and will warrant and defend the same.

This document is intended to reform a conveyance previously entered into by and between the parties.

AUTHENTICATION

Signature of Jerry Archer

Authenticated this 7th day of July, 1997

_____

Richard C. Glesner
TITLE: MEMBER STATE BAR OF WISOCNSIN

PDQ FOOD STORES, INC.
By:

_____

JERRY ARCHER,
Executive Vice President

THIS INSTRUMENT WAS DRAFTED BY

Richard C. Glesner, Esq.
Michael, Best & Friedrich
Suite 700
One South Pinckney Street
P. O. Box 1806
Madison, WI 53701-1806

_____

WARRANTY DEED
STATE BAR OF WISOCNSIN
FORN No. 2 1982
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LEGAL DESCRIPTION

PARCEL I: Part of the southeast 1/4 of section 5 town 1 north, range 22 east of the forth principal meridian, and being more particularly described a follows: Beginning at the southeast corner of the southeast 1/4 of section 5: thence west along and upon the south line of said 1/4 section 165 feet; thence running west, parallel with the south line of said 1/4 section 408 feet; thence running east, parallel with the south line of said 1/4 section 408 feet to the east line of said 1/4 section; thence running south along and upon the east line of said 1/4 section 573 feet to the point of beginning, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

PARCEL II: Part of the southeast 1/4 of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast 1/4 section 5, at a point which is 165 feet west from the southeast corner of said 1/4 section and the center line of the Geneva Road (Hwy. # 50) so-called, a distance of 25 feet; thence running north, parallel with the east line of said 1/4 section, 165 feet; thence running east, parallel with the south line of said 1/4 section, 25 feet; thence running south, parallel with the east line of said 1/4 section 165 feet to the place of beginning, EXCEPTING THEREFROM the parcel of land conveyed to the County of Kenosha by instrument recorded August 3, 1961 in Volume "585" Records, page 336, document number 429675, lying and being in the Village of Pleasant

Prairie, County of Kenosha and State of Wisconsin.

PARCEL III: Part of the Southeast 1/4 of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast 1/4 section, and the center line of the Geneva Road (Highway "50") so-called, a distance of 100 feet: thence running north, parallel with the east line of said 1/4 section 165 feet; thence running east, parallel with the south line of said 1/4 section 100 feet; thence running south parallel with the east line of said 1/4 section, 165 feet to the place of beginning, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

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WISCONSIN REAL ESTATE
TRANSFER RETURN

I GRANTOR:
1. Name: PDQ FOOD STORES, INC.
2. Address: P. O. Box 620997
Middleton, WI 53562-0997

II GRANTEE:

4. Name DENNIS L & MARIA L. PETERSON
5 Address: C/o John Maan de Kok
1025 56th St.
Kenosha, WI 53142
6. Grantor / grantee related X none
7. Send tax bill to: PDQ Food Stores, Inc.
P.O. Box 620997
Middleton, WI

III Energy 8.
X No Exclusion code W4

IV PROPERTY TRANSFERRED
X Village Pleasant Prairie
Kenosha, County
10. 8800 - 8820 75th St.
11. 91-4-122-054-0230 & 0240
13. Section 5 Township 1N Range 22E

V PHYSICAL DESCRIPTION
15. X Land and buildings
16. (b) Commercial retail

VI TRANSFER
18 X Sale
19 Ownership interest X Full

VII COMPUTATION OF FEE
25 Value $637,500.00
26 $ -0-
27 Transfer Exemption No. (3)

IX CERTIFICATION

Grantor or agent Grantor's SS #

39-1136741
Grantors Phone - (608) 836-3335

Grantee or agent Grantee's SS #
389-38-1693
Grantees Phone - (414) 658-4604

PARCEL I : Part of the southeast 1/4 of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning at the southeast corner of the southeast 1/4 of section 5; thence west along and upon the south line of said 1/4 section, 165 feet; thence running north parallel with the east line of said 1/4 section 165 feet; thence running west, parallel with the south line of said 1/4 section 243 feet: thence running north parallel with the eat line of said 1/4 section 408 feet: thence running east, parallel with the south line of said 1/4 section 408 feet to the east line of said 1/4 section; thence running south along and upon the east line of said 1/4 section 573 feet to the point of beginning, lying and being in the Village of Pleasant Prairie County of Kenosha and State of Wisconsin.

PARCEL II: Part of the southeast 1/4 of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast 1/4 of section 5, at a point which is 165 feet west from the southeast corner of said 1/4 section, and running thence west, along and upon the south line of said 1/4 section and the

center line of the Geneva Road (Hwy. # 50) so-called, a distance of 25 feet; thence running north, parallel with the east line of said 1/4 section, 165 feet ; thence running east, parallel with the south line of said 1/4 section, 25 feet; thence running south, parallel with the east line of said 1/4 section 165 feet to the place of beginning, EXCEPTING THEREFROM the parcel of land conveyed to the County of Kenosha by instrument recorded August 3, 1961 in Volume "585" Records, page 336, document number 429675, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

PARCEL III: Part of the southeast 1/4 of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described a follows: Beginning on the south line of the southeast 1/4 of said section, at a point which is 190 feet west from the southeast corner of said 1/4 section, and the center line of the Geneva Road (Highway "50") so-called, a distance of 100 feet; thence running north, parallel with the east line of said 1/4 section 165 feet; thence running east, parallel with the south line of said 1/4 section, 100 feet; thence running south parallel with the east line of said 1/4 section, 165 feet to the place of beginning, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

SAMPLE QUIT CLAIM DEED

This Deed, made between DENNIS L. PETERSON and MARIA L. PETERSON, husband and wife. GRANTOR and
PDQ FOOD STORES, INC. GRANTEE

RETURN TO
Richard C. Glesner, Esq.
Michael, Best & Friedrich
Suite 700
One South Pinckney Street
P.O. Box 1806
Madison, WI 53701-1806

91-4-122-054-0230 &
91-4-122-054-0240

Grantors, for valuable consideration
The receipt and sufficiency of which
is hereby acknowledged convey to
Grantee the following described real
estate in Kenosha County, State
of Wisconsin:

SEE LEGAL DESCRIPTION ATTACHED HERETO

This is not homestead property:

Together with all and singular the hereditaments and appurtenances thereunto belonging;
And DENNIS L. PETERSON AND MARIA L. PETERSON warrant that the title is good

indefeasible in fee simple and free and clear of encumbrances except municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants specifically excepting and preserving for the benefit of PDQ Food Stores. Inc. a Restrictive Covenant Recorded April 18, 1997, as Document No 1052133 with the Kenosha County Register of Deeds, and general taxes levied in year of closing and will warrant and defend the same.

This document is entered into to reform a previously recorded conveyance between the parties to this conveyance.

Dated this 7th day of June, 1997

_____
Dennis L. Peterson

_____
Maria L. Peterson

ACKNOWLEDGEMENT

State of Wisconsin)
) SS
Kenosha County)

Personally came before me on
This 7th of June, 1997, the
Above named DENNIS L.
And MARIA L. PETERSON

To me known to be the
Person who executed the
foregoing instrument and
acknowledge the same.

_____

Notary Public

County, Wisconsin

My commission is
permanent, if not,
state expiration date:

THIS INSTRUMENT WAS DRAFTED BY

John Maan de Kok

Attorney at Law

WARRANTY DEED
STATE BAR OF WISCONSIN
FORM No 2-1982

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LEGAL DESCRIPTION

PARCEL I: Part of the southeast 1/4 of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning at the southeast corner of the southeast 1/4 of section 5; thence west along and upon the south line of said 1/4 section, 165 feet; thence running west, parallel with the south line of said 1/4 section 243 feet; thence running north parallel with the east line of said 1/4 section 408 feet; thence running east, parallel with the south line of said 1/4 section 408 feet to the east line of said 1/4 section; thence running south along and upon the east line of said 1/4 section 573 feet to the point of beginning, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

PARCEL II: Part of the southeast 1/4 of section 5 town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast 1/4 section, and running thence west, along and upon the south line of said 1/4 section and the center line of the Geneva Road (Hwy. #50) so-called, a distance of 25 feet: thence running north, parallel with the east line of said 1/4 section, 165 feet: thence running east, parallel with the south line of said 1/4 section, 25 feet; thence running south, parallel with the east line of said 1/4 section 165 feet to the place of beginning, EXCEPTING THEREFROM the parcel of land conveyed to the County of Kenosha by instrument recorded August 3, 1962 in Volume "585" Records, page 336, document number

429675m lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

PARCEL III: Part of the southeast 1/4 of section 5, town 1 north , range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast 1/4 of said section, at a point which is 190 feet west from the southeast corner of said 1/4 section, and running thence west along and upon the south line of said 1/4 section, and the center line of the Geneva Road (Highway "50") so-called a distance of 100 feet: thence running north, parallel with the east line of said 1/4 section, 100 feet; thence running south parallel with the east line of said 1/4 section, 165 feet to the place of beginning, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

WISCONSIN REAL ESTATE TRANSFER RETURN

I. GRANTOR:
1. DENNIS L. AND MARIA L. PETERSON
2. C/O John Maan de Kok
1025 56th St.
Kenosha, WI 53142

II GRANTEE
4 PDQ FOOD STORES, INC.
5 P. O. Box 620997
6 Grantor/Grantee related X None

III ENERGY
8 X NO W4

IV PROPERTY TRANSFERRED
9 X Village Pleasant Prairie
Kenosha County
10 8800 - 8820 75th St.
11 92-4-122-054-0230 & 0240
13 Section 5 Township 1N Range 22E

V. PHYSICAL DESCRIPTION
15 x Land and buildings
16. Primary use X Commercial Retail

VI TRANSFER
18 x SALE
19 Ownership interest transferred
X Full

VII COMPUTATION OF FEE
25 Value $637,500.00
26 Transfer fee - 0 -

27 Exemption number (3)

IX CERTIFICATION

Grantor or agent

Grantors SS No.
389-38-1693
Grantors Phone
(414) 658-4604

Grantee or agent

Grantee SS No.
39-1136741
Grantee Phone
(608) 836-3335

ESCROW AGREEMENT

Agreement made this 5th day of March, 1997 (the "Effective Date"), by and between PDQ Food Stores Inc., a Wisconsin Corporation (PDQ), Dennis L. & Maria L. Peterson ("Peterson") and Kenosha Title Services Inc. ("Kenosha Title")

RECITALS:

PDQ and Petersons have entered into a Commercial Offer to Purchase dated August 15, 1996 (the "Contract") for the purchase and sale of certain premises referred to as a parcel of land located at the northwest corner of Highway 50 and 88th Avenue in the Village of Pleasant

Prairie, Kenosha County, Wisconsin known as the "Rockin Robins Mill" property (the "Property"), more particularly described as follows:

PARCEL I: Part of the southeast 1/4 of section 5, town 1 north range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning at the southeast corner of the southeast 1/4 of section 5; thence west along and upon the south line of said 1/4 section 165 feet; thence running north parallel with the east line of said 1/4 section 165 feet; thence running west, parallel with the south line of said 1/4 section 243 feet; thence running north parallel with the east line of said 1/4 section 408 feet; thence running east, parallel with the south line of said 1/4 section 408 feet to the east line of said 1/4 section; thence running south along and upon the east line of said 1/4 section 573 feet to the point of beginning, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin.

PARCEL II: Part of the southeast 1/4 of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast 1/4of section 5, at a point which is 165 feet west

from the south east corner of said 1/4 section, and running thence west, along and upon the south line of said 1/4 section and the center line of the Geneva Road (Hwy. #5) so-called, a distance of 25 feet: thence running north, parallel with the east line of said 1/4 section, 165 feet; thence running south, parallel with the east line of said 1/4 section 165 feet to the place of beginning, EXCEPTING THEREFROM the parcel of land conveyed to the County of Kenosha by instrument recorded August 3, 1961 in Volume "585" Records, page 336, document number 429675, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisocnsin.

PARCELL III: Part of the southeast 1/4 of section 5, town 1 north, range 22 east of the fourth principal meridian, and being more particularly described as follows: Beginning on the south line of the southeast 1/4 of said section, at a point which is 190 feet west from the southeast corner of said 1/4 section, and running thence west along and upon the south line of said 1/4 section, and the center line of the Geneva Road (Highway "50") so-called, a distance of 100 feet; thence running north, parallel with the east line of said 1/4 section 165 feet; thence running east, parallel with the south line of said 1/4 section, 100

feet; thence running south parallel with the east line of said 1/4 section, 165 feet to the place of beginning lying and being in the village of Pleasant Prairie, County of Kenosha and State of Wisconsin. Tax Parcel Number: 60-0810-284-0504-2 (the Property")

Petersons are contractually obligated as condition precedent to closing to construct at their sole expense as to insure the construction of an extension of 74th Street (the "Roadway") to provide ingress and egress to the Property and other properties at the location shown on Exhibit A, in accordance with the terms and specifications of the Village of Pleasant Prairie Developer's Agreement a draft of which is attached as Exhibit B.

PDQ is ready, willing and able to fulfill the terms of the Contract but needs to be assured that the friveway is timely and completely constructed at the location shown on Exhibit A in accordance with a Developers Agreement approved by all authorities having jurisdiction over the Property who are required to approve the Developers Agreement and the completed Drivewy;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged by each, PDQ, Petersons and Kenosha Title Agree as follows:

1. Escrowed Funds Kenosha Title is hereby appointed Escrow Agent, to hold in a separate escrow account, the sum of Two Hundred Thirty

Thousand Dollars ($230,000.00) (the "Escrowed Funds") which represent 115% of the estimated cost of the Roadway.

2. Deposit in Escrow. PDQ shall deposit with Kenosha Title, at closing on March 21, 1997, the sum of Two Hundred Thirty Thousand Dollars ($230,000.00). which sum would otherwise have been paid to Petersons, which shall be shown on the Closing Statement, as an amount deduct from the amount due Petersons. Petersons consent to such deposit in Escrow by PDQ and a corresponding deduction of the amount due Petersons, subject to the terms and conditions of this Escrow Agreement.

3. Security. Kenosha Title shall deposit with Advantage Bank, F.S.BS., in an interest bearing EAGLE checking account the Escrowed Funds for the benefit of PDQ to secure Petersons performance under this Escrow Agreement. All interest shall be payable to the Petersons. If Petersons shall fail to comply with the terms of this Escrowed Funds to PDQ. Each party releases Kenosha Title from all liability here-under, except for its acts of gross negligence or willful misconduct.

4. Petersons Performance. Petersons shall timely construct the Roadway at the location and in the manner described in the draft of the Village of Pleasant Prairie's Developer's Agreement attached as Exhibit B. Any changes to the draft Developer's Agreement Caused by any person or entity as a condition of approval of the final Developer's Agreement must, in form and

substance, be mutually acceptable to PDQ and Petersons in the exercise of their reasonable business judgment.

In the event Kenosha Title is instructed to hold the Escrowed Funds as provided, Kenosha Title shall disburse the Escrowed F D. r such portion of the Escrowed Funds as Keno P le is holding to Petersons or their de M. P.e when Kenosha Title is informed in writing by the Village of Pleasant Prairie that the Roadway has been completed and accepted by approving authorities. Notwithstanding and preceding provisions to the contrary, the Roadway must be complete not later than June 15, to an extent to Permit PDQ to obtain an Occupancy Permit for PDQ's proposed retail convenience store. In the event the Roadway is not so coJune 15 PDQ shall be entitled to construct the Roadway in Accordance with the Dev INITIALS ement and to utilize the escrowed funds to under take and complete construction of Roadway. Additionally, in the event th P. der Course" is not comp M. er 1, 1997 , PDQ shall be entitled to construct the Roadway in accordance with the Developer's Agreement and to construct the Roadway in accordance with the Developer's Agreement and to D. crowed funds to P. nd complete construction of the Roadway.

Initials on side of page
"S/" L. H. "S/" J. A.

5. General Provisions:

A. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Wisconsin.

B. Modifications. This Agreement may be amended or modified only by written instrument executed by both of the parties hereto.

C. Notices. All notices, consents or other instruments or communications provided for under this Agreement shall be in writing, signed by the party giving the notice, and shall be deemed properly given and received when delivered by messenger, telecopier, overnight commercial carrier regular mail and actually received or, on the third business day after mailing, if sent by certified mail, return receipt requested, postage prepaid, to the address of the party set forth below or to such other address as such each may designate by written notice to the other party given in accordance with this Paragraph (C)

If to PDQ:

PDQ Food Stores, Inc.
Attn: Randy Manning
P.O. Box 620997
8383 Greenway Boulevard
Middleton, WI 53562-0997
Phone: (608) 836-8233

If to Petersons

Dennis and Maria Peterson
880 75th Street

Kenosha, WI
Phone (414) 694-2031

If to Kenosha Title:

Attn: Steven R. Schneider
520 58th Street, Suite 1
Kenosha, WI 53140
Phone: (414) 654-9141
Facsimile: (414) 654-1492

With contemporaneous copy or electronic transmission to:

Michael, Best & Friedrich
Attn: Richard C. Glener
P.O. Box 1806
One South Pinckney Street
Madison, WI 53701-1806
Phone: (608) 257-3501
Facsimile: (608) 283-2275

With a contemporaneous copy of electronic transmission to:

John Maan de Kok
Phillips, Richards , Mayew
& Corrigal, S.C.
1025 56th Street
Kenosha, WI 53140
Phone: (414) 658-4604
Facsimile (414) 658-9346

(D) Captions and Headings. The captions and headings of various sections of theis Agreement are for convenience only and are not to be construed as confining or limiting in any way

the scope of intent of the provisions of this Agreement. Whenever the context requires or permits, the singular shall include the plural, and the plural shall include the singular and masculine, feminine and neuter shall be freely interchangeable.

(E) Severability of Provisions. In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if the invalid, illegal or unenforceable provision had never been contained herein.

(F) Time of Essence. Time is of the essence.

(G) Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

(H) Litigation. In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.

(I) Binding Effect. This Agreement shall be binding upon and shall incur to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

PDQ FOOD STORES, INC.

Date: "S/" 3-21-97

By: "S/" Jerry Archer
"S/" Executive Vice President

PETERSONS

Date: "S/" 3/21/97

"S/" Dennis L. Peterson

"S/" Maria L. Peterson

KENOSHA TITLE SERVICES, INC.

Date: "S/" March 21, 1997

By: "S/" Loretta Harmey

Drafted by:
Michael, Best & Friedrich
Richard C. Glesner
One South Pinckney Street
P. O. Box 1806
Madison, Wisconsin 53701-1806

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KENOSHA COUNTY CERTIFIED SURVEY MAP
1981 Doc. No. 1063441

A parcel located in the SE 1/4 section 5 T. 1 N..R 22 E

Date: March 17, 1997

SURVEY BY: Greg A Jewell, PE RLS
Jewel & Associates, Inc.
148 W. Jefferson St
Spring Green, WI 53588

SURVEYED FOR:
PDQ Foods Store's inc.
8383 Greenway Blvd
Middleton WI 53562-0997

OWNERS: Dennis L. & Maria L. Peterson
8800 75th St.
Kenosha, WI 53140

Patric Parker
8830 75th St.
Kenosha , WI 53140

PICTURE OF SURVEY SAME AS ORIGINAL

NO DOCUMENT NUMBER

NEVER FILED

EXHIBIT A

CERTIFIED SURVEY MAP

A part of the SE 1/4 of the SE 1/4 of Section 5, T1 N. R 22 W., Village of Pleasant Prairie, Kenosha County, Wisconsin.

Date: March 17, 1997

Survey by: Greg A Jewel, PE. RLS
Jewel & Associates, Inc.
146 W. Jefferson St.
P.O. Box 718
Spring Green, WI 53588

SURVEY FOR: PDQ FOOD'S INC.
8383 Greenway Blvd.
P.O. Box 620997
Middleton, WI. 53562-0997

OWNERS;

Dennis L. & Maria L. Peterson
8800 75th St.
Kenosha, WI 53142

Patric Parker
8839 75th St.
Kenosha, WI 53142

SURVEYOR'S CERTIFICATE

I Greg A Jewell, Registered Land Surveyor, hereby certify that I have surveyed, divided, and mapped the parcel hereon described under the

direction of Dennis L. Peterson, Maria L. Peterson, and Patric B. Parker, owners, a part the SE 1/4 of the SE 1/4 of Section 5, T 1 N, R 22 E. Village of Pleasant Prairie, Kenosha County, Wisconsin, the exterior boundaries of which are more fully described as follows:
Commencing at the South east corner of Section 5, T 1 N. R 22 E, thence S 89 o46' 36" W. 190.00' along the south line of the SE 1/3 of the SE 1/3 of said Section 5; thence N 00o13'24" W. 33.00' to a point on the north right-of-way line of S.T.H. 50, said point being the point of beginning; thence S 89o46'36" W. 206.77" thence N 02o13'14" W. 279.74'; thence N 89o46'02"E, 206.99'; thence N 02o17'09" W. 259.88' to a point on the south riht-of-way of 89th Ave.; thence N 89o38'12" E. 33.12' to a point on the east right-of-way of 89th Ave.; thence N 89o38'12" E, 141.91'; thence N 89o45'48" E,183.03', to a point on the west right-of-way of C.T.H. "H", thence N 89o45'48" E, 13.69,
To a point on the west right-of-way of C.T.H. "H"; thence S 02o16'17" E. 359.46; thence S 87o43'43" W, 13.68', to a point on the west right-of-way of C.T.H. "H"; thence s 02o16'17" E. 150.00' to a point on the north right-of-way of S.T.H. 50; thence S 77o25'07" W. 140.98' along the said north right-of-way of S.T.H. 50, to the point of beginning.

That I have complied with the provisions of Chapter 236.34 of the Wisconsin State Statues, the Village of Pleasant Prairie Land Division Ordinance in surveying, dividing, and mapping this parcel to the best of my knowledge and belief and that such plat is a correct representation of

all exterior boundaries of the land surveyed and divided.

Dated this _____ day of _____ 1997

Surveyor

_____

GREG A. JEWEL S-1896

A PART OF THE se 1/4 OF Section 5, T 1 N, R 22 W., Village of Pleasant Prairie, Kenosha County, Wisconsin

Date: March 17, 1997

Survey by: Greg A Jewel, PE. RLS
Jewel & Associates, Inc.
146 W. Jefferson St.
P.O. Box 718
Spring Green, WI 53588

Survey for: PDQ Foods Inc.
8383 Greenway Blvd.
P.O. Box 620997
Middleton, WI 53562-0997

OWNERS; Dennis L. & Maria L. Petrson
8800 75th St.
Kenosha, WI 54142

Patric Parker
8830 75th St.
Kenosha, WI 53142

OWNER'S CERTIFICATE

As owners, we hereby certify that we caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on this plat. We also certify that this Certified Survey Map is required to be submitted to the following for approval, Village of Pleasant Prairie.

_____ _____

Dennis L. Peterson Patric B. Parker

_____

Maria L. Peterson

STATE OF WISCONSIN

KENOSHA COUNTY S.S.

Personally came before me this ___ day of _____ 1997, the above named Dennis L. and Maria L. Peterson: and Patric B. Parker, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

My Commission Expires _____

_____

Notary Public

VILLAGE OF PLEASANT PRAIRIE CERTIFICATE

This certified survey map has been submitted to and approved by the Village Board of the Village of Pleasant Prairie on this _____day of _____ 1997

_____

PLAN COMMISSION CHAIRMAN
Wayne E. Kosel

_____

VILLAGE CLERK Jane M. Romanowski

APPROVED _____
Village President

CERTIFIED SURVEY MAP

A [PART OF THE s.e. 14 OF THE se 13 OF Section 5. T 1 N. R. 22 W., Village of Pleasant Prairie, Kenosha County, Wisconsin

Date: March 17, 1997

Survey by: Greg A. Jewel, PE> RLS
Jewel & Associates, Inc.
146 /w, Jefferson St.
P. O. . Box 718
Spring Green, WI 53588

Survey for: PDQ Food's Inc.
8383 Greenway Blvd.
P. O. Box 620997
Middleton, WI 53562-0997

OWNERS; Dennis L. & Maria L. Peterson
8800 75th St.
Kenosha, WI 53142

Patric Parker
8830 75th St.
Kenosha, WI 53142

UTILITY EASEMENT PROVISIONS

An easement for electric and communications service is hereby granted by

Dennis L. Peterson, Maria L. Peterson, and Patric B. Parker, owners, Grantor, to

Wisconsin Electric Power Company,
Ameritech, and Warner Cable, Grantees.

Their respective successors and assigns, to construct, Install, operate, repair, maintain and replace from time to time, facilities used in connection with overhead and underground transmission and distribution of electricity and electric energy for such purposes as the same is now or may hereafter be used and for sounds and signals all in, over, under, across, along and upon the property shown within those areas on the plat designated as "Utility Easement Areas" and property designated on the plat for streets and alleys, whether public or private, together with the right to install service connections upon, across within and beneath the surface of each lot to serve improvements thereon or on adjacent lots; also the right to trim or cut down trees, brush and roots as may be reasonably required incident to the rights herein given, and the right to enter upon the subdivided property for all such purposes. The Grantees agree to restore or cause to have restored, the property, as nearly as is

reasonably possible, to the condition existing prior to such entry by the Grantees or their agents. This restoration, however, does not apply to the initial installation of said underground and/or above ground electric facilities or communications facilities or to any trees brush or roots which may be removed at any time pursuant to the rights herein granted. Buildings shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "Utility Easement Areas" without the prior written consent of Grantees. After installation of any such facilities, the grade of the subdivided property shall not be altered by more than four inches without the written consent of grantees.

The grant of easement shall be binding upon and insure to the benefit of the heirs, successors and assigns of all parties hereto.

CERTIFIED SURVEY MAP

Actual size NOT Shown

JEWELL & ASSOC., INC. # 1063441

ENGINEERS-SURVEYORS-ARCHITECTS

148 W. JEFFERSON ST. – SPRING GREEN, WI 53588

OSHA COUNTY CERTIFIED SURVEY MAP # 1981

A PARCEL LOCATED IN THE SE 1/4 OF THE SE 1/4, SECTION 5, T. 1 N., R. 22 E., T OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN.

MAY 23, 1997

SURVEYED FOR: DENNIS L. & MARIA L. PETERSON
8800 75TH ST.
KENOSHA, WI 53142

T BY: GREG A. JEWELL, PE, RLS
JEWELL & ASSOCIATES, INC.
148 W. JEFFERSON ST.
SPRING GREEN, WI 53588

OWNERS: DENNIS L. & MARIA L. PETERSON
8800 75TH ST.
KENOSHA, WI 53142

SCALE: 1"=100'
0 50 100

NORTH

BEARINGS REFERENCED TO THE SOUTH LINE OF THE SE 1/4 OF SECTION 5, T. 1 N., R. 22 E., RECORDED AND ASSUMED AS S 88°46'35" W.

WISCONSIN GREG A. JEWELL S-1998 SPRING GREEN WI LAND SURVEYOR

ABBREVIATIONS
MRAGE
SHED
HOUSE
SANITARY SEWER

EAST LINE OF THE SE 1/4 SEC. 5-1-22

SE COR. SEC. 5-1-22 FD. MON. N= 213,629. E= 2,581,900

R/W

(999' ASS.)

S87°45'43"W 1320.46'

S 02°16'17" E 330.46'

N02°16'17"W 216.84'

VISION TRIANGLE

S02°16'17"E 77.10'

S02°16'17"E 188.85'

LOT 1
91,857 S.F.

EASEMENT DEDICATED TO THE VILLAGE FOR DETENTION BASIN, DRAINAGE, AND MAINTENANCE PURPOSES. (15,753 S.F.)

DRAINAGE WAY

DEDICATED TO THE PUBLIC FOR RIGHT-OF-WAY 43,360 S.F.

UTILITY EASEMENT

LOT 3
82,723 S.F.

SE1/4 - SE1/4

N02°17'09"W 252.88'
(N02°16'11"W 250.00')

S02°11'35"E 246.20'

SANITARY SEWER EASEMENT

74TH STREET

LOT 2
51,008 S.F.

PARCEL 3

LEGEND
1 1/2" I.P.

RESTRICTIVE COVENANT

Document Number

1052133
Restrictive Covenant AG
At Kenosha County,
Kenosha, WI 53140
Louise I Principe,
Register of Deeds
On 3/24/1997 at 8:36 AM
970010592 18.00
PATC REGDEED2

Return to
Richard C. Glesner
1 South Pinckney Street
Madison, WI 53701-1806

Parcel identification

91-4-122-054=0174

SEE ATTACHED LEGAL DESCRIPTION

RESTRICTIVE COVENANT

Restrictive Covenant from Dennis L. Peterson and Maria L. Peterson (Sellers") to PDQ Food Stores, Inc. ("PDQ")

Sellers are selling the real estate described on attached Exhibit A to PDQ "the PDQ Parcel". The Agreement of Purchase and Sale between Sellers and PDQ (the "Agreement") for acquisition of the PDQ Parcel by PDQ provides that Seller will grant the restrictive covenant to PDQ restricting all other property owned by Seller, all or any Part of which is situated within 2,500 feet from the PDQ Parcel measured from the nearest property boundaries.

In partial fulfillment of the Agreement and for one dollar (1.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged and the parties intending to be legally bound , agree as follows:

1. For the period described in paragraph 2 of this agreement, neither Sellers nor their successors in title shall use, sell or lease or otherwise transfer to anyone any real property or any interest in real property now or subsequently owned by or leased to Seller located within 2,500 feet of the PDQ Parcel for:

(a) The operation of a convenience food store similar to PDQ, Super America, Amoco, Mobil, Shell or Kwik trip, or

(b) The operation of a facility to

sell gasoline or other motor fuels on the self-service or other retail basis.

The real property in which Sellers or either of them currently have an interest subject to this Restrictive Covenant is described on the attached Exhibit B.

2. The covenant created by this Agreement shall commence on the date of this Agreement and shall expire on the first to occur of the following two dates:

(a) Thirty (30) years after March 21, 1997: or

(b) The date PDQ or any successor or assign of PDQ, after opening a store or facility of the type described in paragraph 1, ceases to operate a convenience store or facility from the PDQ Parcel or ceases to sell gasoline or other motor fuels on the self-serve or other retail basis from the PDQ Parcel for twelve or more consecutive months. If PDQ or any successor or assign ceases to operate one but not both of the uses from the PDQ Parcel, the covenant shall terminate only as to the uses which has ceased for a period of twelve or more consecutive months.

3. This covenant shall run with the land for the benefit of PDQ and the PDQ Parcel, and shall

inure to the benefit of and be binding upon the parties, their respective heirs, representatives, successors and assigns.

4. Sellers acknowledge that the geographic scope and duration of this covenant is reasonable to protect the investment PDQ will make in the PDQ Parcel to establish its business and to reasonably recover its investment. Sellers agree not to bring any action or make any allegations in a court of law or otherwise, that the duration or geographical limit of the restriction created by this Agreement is unreasonable or unnecessary to protect PDQ's investments.

5. If any portion of this Agreement is determined by a court of competent jurisdiction to be illegal or unenforceable, the provision will be deemed stricken from this Agreement but all other provisions of the Agreement shall remain in full force and effect. Further, if the illegal or unenforceable provision does not allow this Agreement to carry out its intent, the parties agree to further amend this Agreement in such a manner as to permit this Agreement to carry out the original intent of the parties.

6. If Sellers or their successors in title violate the terms and conditions of this Agreement, PDQ, in addition to and not in limitation of, any of the rights, remedies or damages otherwise available, at law or in equity, shall be entitled to injunctive relief in order to prevent or restrain any such breach without the necessity of posting any bond or any other security. Such relief is necessary due to the fact that damages to PDQ are not subject

to an exact determination. Such remedies shall not be exclusive and PDQ may concurrently seek other recovery available at law or in equity against Sellers, or either of them, or Sellers' successors in title.

EXHIBIT A
TO
RESTRICTIVE COVENANT AGREEMENT

PARCEL A OF CERTIFIED SURVEY MAP NO. 1218, recorded in the office of the Register of Deeds of Kenosha County, Wisconsin on September 23, 1988 in Volume "1326" Records, page 625, document number 808307, and being part of the southeast 1/4 of section 5, 1 north, range 22 east of the fourth principal meridian, lying and being in the Village of Pleasant Prairie, County of Kenosha and State of Wisconsin

7. PDQ and Sellers assume joint responsibility for the form and composition of this Agreement. No provision of this Amendment shall be construed for or against either party because that party or that party's legal representative drafted this Agreement

Dated March 21, 1997.

SELLERS :

"S/" Dennis L. Peterson

"S/" Maria L. Peterson

PDQ FOOD STORES, INC.
By

"S/" Jerry Archer

Vice President

AUTHENTICATION

Signatures of Dennis L. Peterson Maria L. Peterson, and Jerry Archer, authenticated this 21 day of March, 1997

"S/" Richard C Glesner

Title: Member, State Bar of Wisconsin

Drafted by:
Richard C. Glesner
Michael, Best & Friedrich
P.O. Box 1806
Madison, WI 53701-1806
(608) 257-3501

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